香港申訴專員公署

Office of The Ombudsman, Hong Kong



主動調查報告
Direct Investigation Report

有關路旁殘疾人士專用泊車位的措施及使用情況
Measures and Usage of On-street Parking Spaces Designated for People with Disabilities

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Executive Summary
Direct Investigation Report

Measures and Usage of On-street Parking Spaces Designated for People with Disabilities

Introduction

In the past, only drivers with disabilities holding the Disabled Person's Parking Permit ("DPPP")[1] were entitled to use the on-street parking spaces designated for people with disabilities ("DPS"). With effect from 29 January 2021, the Transport Department ("TD") introduced a new measure to extend the eligibility for using DPS to holders of the Parking Certificate for Drivers Who Carry People with Mobility Disabilities ("Parking Certificate") to facilitate the carrying of specified persons with lower limb mobility disabilities ("persons with LLMD"). The new measure is aimed at promoting social integration of disabled persons as well as supporting and easing the burdens of carers. This Office concurs that these objectives are in line with the current policy direction.

2. The provision of DPS involves both the on-street parking policy and the policy of transport for people with disabilities. In handling relevant issues, TD has to consider and balance the two aspects concurrently. Moreover, TD should ensure that people with comparable levels of lower limb disabilities, either as drivers or passengers, are equally entitled to use DPS. Yet, in achieving these objectives, TD apparently has not anticipated the problems stemming from the discrepancies between DPPP and Parking Certificate in terms of approval criteria, checks against abuse, etc., when the holders of both documents are allowed to use DPS for free. TD's launch of the new measure without in-depth assessment of potential problems upon implementation could easily aggrieve the parties affected.

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1 At present, disabled persons within the definition under section 2 of the Road Traffic Ordinance (Cap. 374) and fit to drive a motor vehicle are entitled to a range of driving and parking concessions. Disabled persons who apply for a driving licence are required to undergo testing and assessments, and will be issued a driving licence upon TD's approval. After obtaining valid driving licences and vehicle licences, drivers with disabilities are eligible to apply for the DPPP.

Our Findings

3. Our investigation has revealed the following inadequacies on the part of TD in formulating the new measure, assessing the supply and demand of DPS, processing applications, preventing abuse and handling complaints.

(I) Process of Formulating New Measure

Failing to Consult Stakeholders

4. TD formulated and introduced the new measure in the wake of an application for leave for judicial review in 2019. Against this background, no public consultation had been conducted, nor had TD collected the views of stakeholders (such as DPPP holders, representatives of people with disabilities and/or their carers, qualified persons responsible for assessment of disability condition, etc.). Not only did TD miss the opportunity to refine the new measure's operational details and foster a consensus through extensive and thorough consultation and discussion, the lack of transparency during the formulation process also created a negative perception of the new measure among the stakeholders affected.

Causing Confusion and Frustration by Hastily Changing Requirements and Conditions of Use

5. When TD first introduced the new measure, it simply adopted the original practice before expanding the scope of Parking Certificate, i.e. in addition to registered doctors and registered physiotherapists, it also accepted school principals and registered nurses as qualified persons to issue the relevant certification. However, around four months later and since then, only registered doctors and registered physiotherapists are accepted as qualified persons. Besides, TD received public complaints and views shortly after launching the new measure. It then revised the Parking Certificate's conditions of use within a few months, reflecting that TD had not carefully considered the operational details and possible scenarios.

6. This Office considers that TD should draw on the experience, effectively use various communication channels to engage stakeholders, thereby formulating comprehensive and proper solutions to better respond to their demands.

(II) Supply and Demand of Designated Parking Spaces

Lack of Effective Measures to Balance Supply and Demand and to Promote Turnover of Parking Spaces

7. After the launch of the new measure, the ratio of DPS to holders of DPPP/Parking Certificate has increased from 1: 4 to 1: 8.5. The extra demand brought about by the new measure has aggravated the imbalance in supply and demand, while the increase of DPS lags far behind the increase of Parking Certificate holders. Meanwhile, those spaces are free to use without any requirement for registration or parking records. It is difficult to verify whether a vehicle had overstayed in a DPS, and there are no practical measures to promote turnover of Parking Spaces.

8. This Office considers it essential for TD to clarify the policy direction of having DPS and fully assess the supply and demand. TD should weigh up all factors and set a target ratio of DPS to DPPP/Parking Certificate holders for formulation of long-term planning and development of ancillary facilities. It should also collect and compile data on the supply and demand for DPS, including conducting regular surveys on usage rates for systematic analysis of the existing and future supply and demand. Moreover, TD should draw up a schedule for regular review of progress of the tasks, and properly adjust its actions and follow up based on the results obtained.

Failing to Disseminate Information about Usage Rates of Designated Parking Spaces

9. Before launching the new measure, TD had surveyed the usage rates of DPS. Nevertheless, TD has not released the survey results, such that stakeholders are not fully aware of the demand for those spaces.

10. This Office considers releasing such data conducive to higher transparency of Government administration and operation, thereby enhancing the public’s awareness (especially stakeholders affected) of the policy rationale and engaging their support for the policy and relevant measures. In particular, TD should provide the survey results when liaising with members of the Working Group on Access to Public Transport by People with Disabilities regarding the usage of DPS and the scope of Parking Certificate.

(III) Criteria of DPPP and Parking Certificate

11. Due to their different regimes and backgrounds, DPPP and Parking Certificate have their own sets of approval procedures and eligibility criteria. DPPP is issued under the Road Traffic (Parking) Regulations (Cap. 374C) ("the Regulations") with eligibility criteria prescribed by law. Parking Certificate, on the other hand, is issued by administrative means, and TD can adjust the relevant requirements and measures according to circumstances. Although DPPP and Parking Certificate both provide parking concessions, the discrepancies between their approval criteria and conditions of use cause problems of various degrees.

<u>To Rationalise the Relationships among Applicant, Registered Vehicle Owner and Person to be Carried</u>

12. TD has not imposed any restriction on the relationship between Parking Certificate applicant and the person to be carried. In the past, Parking Certificate holders were only entitled to use the designated parking spaces inside TD's carparks when carrying the person with LLMD. Under the new measure, they can also use DPS free of charge, thus boosting the demand for those spaces. Given the insufficient supply, TD should examine whether its former lenient approach in approving application is tenable.

13. Meanwhile, DPPP applicant or his/her spouse (where the spouse is also a disabled person) must be the registered owner of the relevant vehicle, while Parking Certificate application can be made with a vehicle registered in the name of the applicant or the passenger with mobility disability. Multiple applicants can apply to TD for a Parking Certificate if they have to share the duty of carrying the same person. Upon approving such application, TD would issue only one Parking Certificate so that the certificate can only be used by one of the vehicles listed thereon at any given time. However, it certainly increases the risk of abuse. Also, TD allows registered vehicle owner to authorise another person to be the applicant of Parking Certificate to drive his/her vehicle for carrying the person with LLMD, making the approval procedures more complicated. We urge TD to stringently review the eligibility criteria for Parking Certificate, especially in cases where the applicant, the registered vehicle owner and the person to be carried are different parties and authorisation for other persons to drive a vehicle is involved.

14. Our investigation revealed that TD had approved an application for Parking Certificate on compassionate grounds in exceptional circumstances where the applicant was not the registered owner of the vehicle to be used. To avoid queries about TD's deviation from the established requirements, this Office considers it essential to spell out the consideration factors for approval on compassionate or discretionary grounds. TD should also draw up the approval conditions and criteria to ensure that the procedures are fair and impartial.

Failing to Prescribe Maximum Number of Vehicles Listed on Each Parking Certificate

15. TD accepts applicants for Parking Certificate to register more than one vehicle in one application, but requires that only one of the vehicles should use the certificate at any given time. Upon approval of application to change information (such as changing the vehicle registration mark, adding or reducing the number of vehicles registered on a Parking Certificate, etc.), TD would request the holder to surrender the old certificate and then issue a new one. Yet, if TD mishandles the surrender of old certificate, it might create a loophole for abuse of DPS. Moreover, TD would not examine why Parking Certificate applicants needed to register three or more vehicles, nor has it set a clear standard on the maximum number of vehicles to be registered on each certificate.

16. We urge TD to prescribe a clear and uniform standard on the maximum number of vehicles registered for each Parking Certificate, and draw up operational guidelines for handling applications with multiple vehicles, including in what circumstances such applications are acceptable.

No Restriction on Vehicle Types and Specifications

17. Unlike DPPP holders who are bound by the Regulations to use particular types of vehicles (i.e. private cars, motor cycles or motor tricycles), Parking Certificate holders are not restricted as to the types or specifications of vehicles they would use. We are of the view that TD should consider objectively whether certain types of vehicles are suitable for general use by people with LLMD (for example, whether they can easily get on/off a sports car with very small space), thereby minimising abuse.

18. We urge TD to step up scrutinising such applications and draw up reasonable standards on the vehicle types used by Parking Certificate holders. TD can also consider requiring attachment of photographs of the relevant vehicle with new or

renewal applications for verifying that the vehicles used are suitable for carrying the specified persons with LLMD.

(IV) Measures to Prevent and Tackle Abuse

To Consider Imposing Limitations on the Use of Designated Parking Spaces to Benefit More Drivers and Passengers with Disabilities

19. Currently, DPPP holders are entitled to use DPS for free, while Parking Certificate holders must have the person with LLMD on board when driving in and/or out of those spaces. For holders of both documents, parking in a DPS should not exceed a continuous period of 24 hours. We note that at times the person with LLMD carried by the Parking Certificate holder when driving into a DPS might not return there to get back on the vehicle, and the same vehicle would occupy DPS for a long time in the interim. Despite no breach of the conditions of use (i.e. the person with LLMD named on the Parking Certificate must be on board when the vehicle was driven in and/or out of the space), the situation was unsatisfactory and not conducive to promoting the turnover of DPS.

20. In our view, TD should not only adopt effective measures to closely monitor the usage of DPS, but also explore the feasibility of imposing certain limitations. For instance, it can set a time limit or charge fees after the time limit for parking, so as to promote the turnover of DPS.

Failing to Investigate and Handle Complaints Systematically

21. According to its procedures for handling complaints about Parking Certificate abuse, TD would issue a warning letter to the holder for the first violation. Where repeated or persisting abuses are found, TD would cancel the Parking Certificate. To prevent holders suspected of violating the conditions of use from taking advantage of time difference or other excuses (such as before TD could issue a warning letter or holders denied having received the warning letter) and continuing with the abuse, TD should review its current procedures in handling abuse cases and clarify the definition of “repeated abuse” and the enforcement procedures, including the warning letter system, the consequences of holders not replying by deadline, etc.

22. On the other hand, TD conducted regular surveys, mostly on weekdays (i.e. Mondays to Fridays), in the vicinity of Parking Spaces with high usage rates and

frequent complaints or reports by the public. Considering that TD has been allocated more resources for on-site surveys, we urge it to, besides stepping up monitoring, increase the number of surveys at weekends to obtain a more comprehensive understanding of the actual usage of DPS at those locations.

Improper Arrangement for Recalling Parking Certificates

23. Our case studies revealed that some holders had put off surrendering invalid Parking Certificates to TD. Another case showed that TD had issued a new certificate before the old one was surrendered, resulting in two certificates being used concurrently by different holders claiming to carry the same person with LLMD. These cases reflected serious inadequacy in TD's procedures for handling the surrender of Parking Certificates.

24. On the contrary, the Regulations stipulates the duties of DPPP holders after cancellation of DPPP (either in paper or electronic form) and the penalties for non-compliance. With the introduction of e-Permits, the need for TD to recall paper Parking Certificate would be reduced. Still, as the Parking Certificate is issued by administrative means, the fact that non-compliant holders are not liable to any legal consequences calls into question the fairness of the policy.

Penalties Carrying Insufficient Deterrence

25. Both DPPP and Parking Certificate could be cancelled if their holders violate the conditions of use. However, unlike DPPP holders, Parking Certificate holders are not liable to any sanctions for such violation. We consider that TD should fully recognise the fact that there is no law that regulate non-compliance by Parking Certificate holders, continue to use new technology (e.g. smart monitoring system) to monitor the usage of Parking Spaces and step up enforcement against various forms of abuse. In the long run, TD should consider and explore strengthening the regulatory measures by legislative amendments.

Exploring Other Practical Solutions

26. We urge TD to continue exploring other practical solutions to prevent and address abuse of DPS. It should also coordinate and sort out different solutions jointly with stakeholders, thereby fostering a consensus. On the front of new technology application, TD may consider providing real-time information about the availability of

DPS via the "HKeMobility" application, similar to that of general on-street parking spaces, facilitating the instant search of DPS by DPPP/Parking Certificate holders.

Recommendations

27. In the light of the above, The Ombudsman makes eleven recommendations to TD:

(1) clarify the policy and positioning of having DPS, fully assess their supply and demand, draw up a schedule for various tasks and regularly review progress of the tasks;

(2) regularly survey the usage rates of DPS, and release the data to the public;

(3) comprehensively review the eligibility and approval criteria for Parking Certificate, especially in cases where the applicant, the registered vehicle owner and the person to be carried are different parties and authorisation for another person to drive a vehicle is involved, as well as the consideration factors and conditions for approval on compassionate and discretionary grounds;

(4) review and strengthen measures against various forms of Parking Certificate abuse;

(5) when processing applications for Parking Certificate with multiple vehicles, step up scrutinising whether the applicants have a genuine need to use multiple vehicles, and draw up operational guidelines for handling such cases;

(6) draw up reasonable standards on the vehicle types used by Parking Certificate holders, and take proper measures to ensure that application is made with vehicles suitable for carrying the specified person with LLMD;

(7) explore setting limits on the use of DPS to promote turnover, such as setting a time limit of parking or charging fees after certain time limit;

(8) review existing procedures for handling parking abuse, clarify the definition of "repeated abuse" and the enforcement procedures;

(9) proceed with the installation of smart monitoring system at DPS to step up monitoring their usage;

(10) in the long run, consider and explore legislative amendments to address the discrepancies between DPPP and Parking Certificate in terms of approval procedures, eligibility criteria and conditions of use; and

(11) use various communication channels to engage and collect views extensively from stakeholders regarding the usage of DPS and the scope of Parking Certificate, thereby exploring and drawing up more comprehensive and proper solutions.

Office of The Ombudsman
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1

INTRODUCTION

BACKGROUND

1.1 In the past, only drivers with disabilities holding the Disabled Person's Parking Permit ("DPPP") were entitled to use the on-street parking spaces designated for people with disabilities ("DPS"). With effect from 29 January 2021, the Transport Department ("TD") introduced a new measure to extend the eligibility for using DPS to holders of the Parking Certificate for Drivers Who Carry People with Mobility Disabilities ("Parking Certificate") to facilitate the carrying of specified persons with lower limb mobility disabilities ("persons with LLMD").

1.2 According to TD, there are currently around 522 DPS in Hong Kong. As at November 2022, 1,703 DPPPs and 2,729 Parking Certificates were issued. Since the new measure was implemented, this Office has received multiple complaints criticising it for aggravating the shortfall in the supply of DPS. Moreover, there were cases of suspected abuse, such as prolonged occupation or misuse by Parking Certificate holders when not carrying persons with LLMD, making it more difficult for drivers with disabilities to find an available parking space. Some also queried TD officers could hardly verify whether the person with LLMD named on the Parking Certificate was on board when the vehicle is driven in or out of DPS, such that TD could not effectively monitor the compliance with the conditions by Parking Certificate holders.

1.3 Against this background, The Ombudsman launched a direct investigation against TD on 20 September 2021 pursuant to section 7(1)(a)(ii) of The Ombudsman Ordinance (Cap. 397).

SCOPE OF INVESTIGATION

1.4 The scope of this direct investigation covers:

- supply of DPS and its conditions of use;
- issue of DPPPs and Parking Certificates;
- monitoring of the usage of DPS; and
- any areas for improvement.

PROCESS OF INVESTIGATION

1.5 On 23 September 2021, we announced the launch of this direct investigation and invited public views on this subject. On 18 November 2022, a draft investigation report was issued to TD for comments, and its reply was received on 16 January 2023. Upon considering and duly incorporating the comments from TD, we finalised this report on 25 April 2023.

2

OVERVIEW OF DESIGNATED PARKING SPACES

2.1 To meet the short-term parking needs of motorists, the Government provides on-street parking spaces where permitted by traffic conditions (i.e. where traffic flow, road safety and loading/unloading activities of other road users are not affected). According to TD's Transport Planning and Design Manual, in districts with higher demand for parking and inadequate off-street facilities to meet such demand, consideration should be given to install meters at on-street parking spaces, so as to prevent prolonged parking and encourage turnover of spaces for traffic management purposes. Metered on-street parking spaces not only keep the demand for parking spaces in check, but also alleviate the traffic problem generated by circulating vehicles in search for parking spaces.

PURPOSES OF DESIGNATED PARKING SPACES

2.2 To facilitate the social integration of people with disabilities and enhance their mobility, the Government has put in place arrangements years ago for disabled motorists to drive and park their own vehicles with more ease. Regarding parking spaces, the Government's 1991 Report on Review of Rehabilitation Programme Plan revealed that in addition to designating one to two parking spaces for disabled motorists in 14 Government carparks, TD had also introduced a pilot scheme in 1988, under which 11 on-street parking spaces were designated for disabled motorists to use with the then "free parking label"[1] issued by the authorities. The pilot scheme, widely welcomed by people with disabilities, was subsequently expanded to all districts under the DPPP scheme.

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[1] In 1972, TD, the Hong Kong Police Force and the Social Welfare Department agreed to introduce the administrative measure of "free parking label" for disabled motorists to park free of charge in metered spaces by displaying the label. The measure served to relieve their burden as they would not need to return and top up the meter at regular intervals.

2.3 TD explained that same as on-street parking spaces in general, DPS are aimed at catering for the short-term parking needs of the motorists concerned. At present, TD would consider adding DPS concurrently when providing on-street parking. According to the Hong Kong Planning Standards and Guidelines, where opportunity arises, on-street parking spaces for persons with disabilities should be provided near the facilities that are often visited by them (including clinics, hospitals, banks, retail markets, post offices, community halls, etc.) and where off-street parking is inadequate in the vicinity. These spaces are usually wider for easy boarding/alighting of persons with LLMD. Furthermore, TD would provide DPS at locations suggested by disabled organisations or individuals as far as practicable.

CONDITIONS OF USE FOR DESIGNATED PARKING SPACES

2.4 Before the launch of the new measure, only drivers with disabilities holding the DPPP were entitled to park in DPS. TD has installed relevant traffic signs adjacent to DPS to specify that they are only for use by vehicles with DPPP or Parking Certificate (see **Chapter 3** for details of issuing DPPPs and Parking Certificates). Besides, same as drivers using on-street parking spaces in general, users of DPS are prohibited by law from parking vehicle in a parking space for a continuous period of more than 24 hours[2].

2.5 With effect from 29 January 2021, TD introduced the new measure to expand the scope of Parking Certificate from originally allowing its holders to use the designated parking spaces inside Government multi-storey carparks to use DPS for free (see **paras. 3.11 – 3.13** for details). The application form for Parking Certificate stipulates that when the applicant drives the vehicle in and/or out of the DPS, the person with LLMD named in the application must be on board. Since the new measure was implemented by administrative means, it did not involve legislative amendments and TD only had to replace the traffic signs.

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2 Pursuant to section 8 of the Road Traffic (Parking) Regulations (Cap. 374C), any person who parks a vehicle in a parking place for a continuous period of more than 24 hours commits an offence and is liable to a fine at level 1. The current maximum fine at level 1 is $2,000.

SUPPLY OF DESIGNATED PARKING SPACES

2.6 TD's data showed that as of November 2022, there were 522 DPS across the territory. To meet the increased demand with opening up DPS to Parking Certificate holders, TD has reviewed the parking need of different types of vehicles in all districts, and added more DPS concurrently with on-street parking spaces at proper locations. Since the launch of the new measure and up to 30 November 2022, TD added 73 DPS (an increase of about 15%), while 41 were under construction or preparation for construction, and 11 were under planning or district consultation.

USAGE OF DESIGNATED PARKING SPACES

2.7 During a thorough study in 2019 about whether the scope of Parking Certificate should be expanded to the use of DPS, the Government surveyed the usage rates of DPS. TD's survey in July and August 2019 covered all DPS across the territory in four sessions[3] on weekdays (i.e. Mondays to Fridays), Saturdays and Sundays. The results showed that the average usage rates of DPS across the territory were 35.6% on weekdays, 35.2% on Saturdays and 37.1% on Sundays. If breaking down by four sessions (see **note 3**), the average usage rates ranged from 30.8% to 41.6% on weekdays, from 27.5% to 42.2% on Saturdays, and from 33.2% to 41.4% on Sundays. The survey also given a breakdown by districts. The average usage rates of DPS on Hong Kong Island and in Kowloon ranged from 29.6% to 50.1% on weekdays, from 26.2% to 49.9% on Saturdays, and from 30% to 53.1% on Sundays; in New Territories ranged from 12.7% to 42.6% on weekdays, from 17.3% to 46.4% on Saturdays, and from 18.6% to 60.3% on Sundays (see **Annex I** for details).

2.8 In September 2020, TD conducted a follow-up survey on the usage of DPS. Based on the survey results in 2019, 22 DPS with the highest usage rates across the territory were selected this time for round-the-clock survey to review their usage. The results showed that the average usage rates of relevant DPS were 50.3% on weekdays, 48.9% on Saturdays and 48.2% on Sundays. If breaking down by four sessions (see **note 3**), the average usage rates ranged from 47.2% to 52% on weekdays, from 45.1% to 51.8% on Saturdays, and from 43.2% to 54.3% on Sundays (see **Annex II** for details). TD planned to survey and review the usage of DPS again in the first half of 2023.

3 The four sessions are 12 midnight to 5:59 am, 6 am to 11:59 am, 12 noon to 5:59 pm and 6 pm to 11:59 pm.

2.9 Nevertheless, the public views we received during this direct investigation included criticisms of TD for introducing the new measure without corresponding increase in the number of DPS. Consequently, drivers with disabilities who rely on their vehicles for transportation often have to spend longer time to find an available parking space. It has become more difficult for them to move about, contrary to the Government's original intent and policy of promoting their social integration.

3

APPROVAL CRITERIA AND CONDITIONS OF USE FOR DISABLED PERSON'S PARKING PERMIT AND PARKING CERTIFICATE FOR DRIVERS WHO CARRY PEOPLE WITH MOBILITY DISABILITIES

DISABLED PERSON'S PARKING PERMIT

3.1 To provide a proper legal basis for the "free parking label" introduced under TD's pilot scheme in 1988 (see **para. 2.2**), the Government amended the Road Traffic Ordinance (Cap. 374) ("RTO") and its subsidiary legislation in 1992 to prescribe details of the application for and issue of DPPPs, and exempt DPPP holders from the fees payable for the use of metered parking spaces.

3.2 Moreover, in line with its policy of wider application of technologies for public services, the Government introduced legislative amendments in 2022, which came into effect on 16 December 2022. TD will phase in electronic permits ("e-Permits") for most types of licences, permits and certificates (including the DPPP). Applicants will receive e-Permits issued in portable document format (PDF) by email for download and print out themselves.

Concessions and Exemptions

3.3 Currently, disabled persons within the definition under section 2 of the RTO[4] and fit to drive a motor vehicle are entitled to a range of driving and parking concessions, including:

(a) exemption from driving test fee;

(b) exemption from driving licence fee;

(c) exemption from vehicle licence fee;

(d) exemption from first registration tax[5] and transfer of ownership fee for motor vehicle;

(e) exemption from duty on vehicle fuel[6];

(f) free tickets for passing through Government tunnels; and

(g) use of DPS, use of on-street metered spaces for free, and parking in multi-storey carparks managed by TD at half rate.

3.4 After obtaining driving licence, a disabled person can apply to TD for DPPP with a vehicle registered under the name of himself/herself or his/her spouse (where the spouse is also a disabled person). TD explained that DPPP is simply a parking permit for implementing item (g) above, which is not directly related to other

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4 Section 2 of the RTO defines that disabled person means a person who is the holder of a certificate signed by or on behalf of the Director of Health or the Hospital Authority within the meaning of the Hospital Authority Ordinance (Cap. 113) stating that such person is suffering from a permanent disease or physical disability that causes considerable difficulty in walking.

5 Exemption from first registration tax is only applicable to the first $300,000 of the taxable value of a private car, motor cycle or motor tricycle, provided that the applicant has not registered a motor vehicle subject to exemption from first registration tax within the previous 5 years.

6 Pursuant to section 4 in Part III, Schedule 1 of the Dutiable Commodities Ordinance (Cap. 109), the Commissioner of Customs and Excise shall waive the duty payable on hydrocarbon oil for use by a disabled person within the meaning of section 2 of the RTO in a private car, motor cycle or motor tricycle owned and driven by him. The disabled person has to apply to the Customs and Excise Department for the waiver, subject to a limit of 200 litres per month in the case of a private car and 100 litres per month in the case of a motor cycle or motor tricycle for each person.

concessions and exemptions (i.e. **(a) to (f) in previous paragraph**). Qualified disabled persons' entitlement to exemptions (a) to (f) is not granted by means of DPPP, and some of them might not apply for DPPP for parking their vehicles.

Eligibility and Approval Criteria

3.5 Under existing arrangement, driving licence applicants with disabilities are required to undergo TD's initial assessment, including testing of eyesight, hand grip strength, foothold strength and response time, and driving simulator test, for preliminarily assessing their fitness to drive. Subsequently, TD would refer those applicants to the Community Rehabilitation Service Support Centre of the Queen Elizabeth Hospital ("QEH Rehab Centre") under the Hospital Authority ("HA") for comprehensive assessment by the centre's medical officers and occupational therapists. The purpose is to assess their fitness to drive from a medical perspective, so as to confirm whether they are within the statutory definition of "disabled person" eligible for the driving and parking concessions (see **previous paragraph**) and have the adequate ability and condition to drive a vehicle, and whether any vehicle modifications are necessary to suit their needs.

3.6 Based on professional medical opinions, TD would assess whether the driving licence applicants with disabilities are eligible for the concessions, thereby making relevant approvals. Applicants who disagree with the assessment or have a change in physical condition can request TD to make a referral again for further assessment. They can apply for and be issued the DPPP only after obtaining valid driving licence and vehicle licence.

(1) <u>Target</u>

3.7 Section 27A of the Road Traffic (Parking) Regulations (Cap. 374C) ("the Regulations") stipulates that to be eligible for a DPPP issued by TD, the applicant is required to be a disabled person holding a valid driving licence permitting the driving of a private car, motor cycle or motor tricycle; the relevant vehicle must be registered under the name of the applicant or the applicant's spouse, where the spouse is also a disabled person. In other words, DPPP is only applicable to the vehicle driven by the disabled person concerned.

(2) Qualified Persons to Conduct Assessment

3.8 As mentioned in **paragraph 3.5**, after the initial assessment by TD, driving licence applicants with disabilities are then referred to QEH Rehab Centre for comprehensive assessment by medical officers and occupational therapists to confirm their fitness to drive and the vehicles driven by them are suitable for their physical condition, thereby ensuring road safety. TD would consider applications according to assessment results. The disabled person concerned can apply for and be issued a DPPP after obtaining valid driving licence and vehicle licence.

(3) Number of Registered Vehicles

3.9 TD only accepts the registration of one vehicle on a DPPP.

(4) Vehicle Types and Specifications

3.10 Section 27A of the Regulations stipulates that an eligible disabled person can apply for DPPP in respect of a private car, motor cycle or motor tricycle. In other words, DPPP applications cannot be made in respect of light goods vehicles or other commercial vehicles. In its report issued after driving ability assessment, QEH Rehab Centre would specify any necessary modifications to vehicle, such as installation of hand-operated accelerator, hand-operated parking brake and steering wheel knobs. If a vehicle is modified, vehicle inspection will also be required. Apart from statutory provisions, TD has not imposed any further restriction on the types or specifications of vehicles used by DPPP holders.

PARKING CERTIFICATE

3.11 To enhance the mobility of people with disabilities who are unable to drive, TD introduced in March 2002 a trial scheme of Parking Certificate for Parents and Spouses Carrying People with Disabilities. Certificate holders were entitled to use designated parking spaces inside Government multi-storey carparks for the easy boarding/alighting of people with disabilities carried by them. They were still required to pay parking fees. In January 2004, the scheme became permanent and was renamed Parking Certificate for Drivers Who Carry People with Mobility Disabilities, with the eligibility for application extending to the relatives of people with disabilities.

3.12 Considering that not all people with disabilities have relatives, TD expanded the scope of Parking Certificate under a trial scheme again on 31 December 2013, allowing Parking Certificate holders to use designated parking spaces inside Government multi-storey carparks when carrying passengers with mobility disabilities who are not their relatives. TD officially put in place the scheme on 1 April 2014.

3.13 TD explained that in early 2019, an application for judicial review against its policy of issuing the DPPP was initiated by a person with disabilities who was not fit to drive. Being ineligible to apply for DPPP and use DPS, the applicant claimed that disabled people who were unable to drive were deprived of the equal opportunity to use DPS, which constituted a disparity of treatment between disabled people. At that time, the Government sought legal advice and carefully examined this application for leave for judicial review. It considered that people with paralysis/LLMD who use wheelchairs as mobility aids and rely on carers to drive them around also have a practical need to use DPS of wider dimensions. Consequently, after reviewing the usage rates of DPS (see **paras. 2.7 and 2.8**), the Government considered there was room for opening up DPS to Parking Certificate holders. With effect from 29 January 2021, the scope of Parking Certificate was further expanded to cover DPS. When using DPS, Parking Certificate holders must have on board the person with LLMD named in TD's approval letter, and display the Parking Certificate conspicuously on the windscreen for inspection.

3.14 Moreover, with the introduction of e-Permits (see **para. 3.2**), both DPPP and Parking Certificate can be issued in electronic form as requested by applicants.

Concessions and Exemptions

3.15 When carrying the person with LLMD, Parking Certificate holders are entitled to use DPS for free and designated parking spaces inside Government multi-storey carparks managed by TD at a fee. No other concessions and exemptions are granted under the Parking Certificate.

Eligibility and Approval Criteria

3.16 According to current approval criteria, TD processes the applications for Parking Certificate with reference to assessment conducted by registered doctors or registered physiotherapists. Applicants are required to attach supporting documents issued by the aforesaid qualified persons to certify the person to be carried is with

LLMD[7]. The qualified persons are also required to specify how long the passenger's disability condition is likely to last according to assessment. TD would set a validity period for the Parking Certificate based on the professional assessment. Moreover, the applicant or the person with LLMD to be carried must own a vehicle registered in either of their names. Since the person with LLMD named in the application is not the driver, TD does not need to assess his or her fitness to drive and any necessary vehicle modifications. TD solely relies on the supporting documents issued by registered doctors or registered physiotherapists to process applications.

3.17 Given that the purpose of issuing Parking Certificates is to facilitate the carrying of persons with LLMD, TD currently has not restricted the relationship between the applicant and the disabled passenger, and the number of vehicles listed in the application. Moreover, considering that the physical mobility of each person with disabilities is unique, TD has not rigidly limited the type or specification of the vehicles used (see **paras. 3.20, 3.24 and 3.27**). Nevertheless, when processing an application, TD would seek supplementary information from the Parking Certificate applicant where necessary, including the disability condition of the passenger, reason for listing more than one vehicle in the application, and supporting documents about the vehicle being suitable for the purpose of carrying the person with LLMD.

(1) <u>Target</u>

3.18 Currently, Parking Certificate applicants are required to be the driver who will carry the person with LLMD. The vehicle specified in the application for such purposes should be owned by and registered under the name of the applicant or the named disabled passenger.

3.19 TD's records showed that among the 280 Parking Certificates issued between December 2021 and February 2022, 70% of the people to be carried were children/minors aged under 18 or seniors aged above 65 with physical disabilities, who might also have insufficient self-care abilities or judgement to handle the application for Parking Certificate. As such, in response to the views that TD should issue the Parking Certificate directly to persons with LLMD, TD said that the Government must carefully consider whether those disable passengers can properly act in the capacity of certificate holders, including whether they have sufficient abilities to complete the application form.

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7 According to the application form for Parking Certificate, the disability conditions of the people to be carried include (1) quadriplegia; (2) stroke, cerebrovascular accident; (3) cerebral palsy, poliomyelitis; (4) hemiplegia; (5) amputation; and (6) others (to be specified).

The Government should also consider the feelings of their family members towards the change, especially in cases of the persons to be carried are children/minors or seniors suffering from quadriplegia/hemiplegia and lacking self-care abilities.

3.20 As mentioned in **paragraph 3.17**, TD currently has not restricted the relationship between the applicant and the person with LLMD to be carried. TD recognised that not all people with disabilities have relatives (see **para. 3.12**). For instance, TD received an application in respect of a priest who needed his friend to drive him around. TD's data showed that between 29 January 2021 and February 2022 (one year after the new measure was launched), in 95% of the cases the applicants and the disabled passengers are relatives[8].

(2) Qualified Persons to Conduct Assessment for Persons with LLMD

3.21 When the trial scheme of Parking Certificate was introduced in March 2002, TD required applicants of Parking Certificate to attach supporting documents issued by qualified persons (i.e. school principals, registered nurses, registered doctors or registered physiotherapists) to certify the persons to be carried were with LLMD. TD explained that supporting documents issued by school principals and registered nurses were acceptable, as the original intent of Parking Certificate was to facilitate the moving around of persons with LLMD. The school principals who issued supporting documents usually worked in special schools, held professional education qualifications and understood the disability condition of the students enrolled in their special schools. Registered nurses with healthcare knowledge to some extent could certify whether the persons with LLMD named in the applications were eligible.

3.22 Following the launch of the new measure and the views of stakeholders, TD has reviewed the approval criteria for Parking Certificate. Since 1 June 2021, only supporting documents issued by registered doctors or registered physiotherapists are acceptable. TD's data showed that between the launch of the new measure and the revision of approval criteria, 0.3% and 0.7% of the applications were made with supporting documents issued by school principals and registered nurses respectively.

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8 TD considers whether a Parking Certificate applicant and the person to be carried are relatives with reference to the family relationships in traditional Chinese ethics, including lineal kin (such as parents, siblings, spouse, children, grandparents and grandchildren) and collateral kin (such as uncles, aunties, nephews and nieces). All the above lineal and collateral kin are deemed relatives of the person to be carried.

3.23 Moreover, under the revised approval criteria, qualified persons are also required to assess and specify in the supporting documents the probable duration of the passenger's disability condition. TD would set a validity period for the Parking Certificate based on the professional assessment. This is for further confirming that the person with LLMD named in the application has a genuine need to use DPS and the duration of such need, thereby ensuring the proper use of DPS.

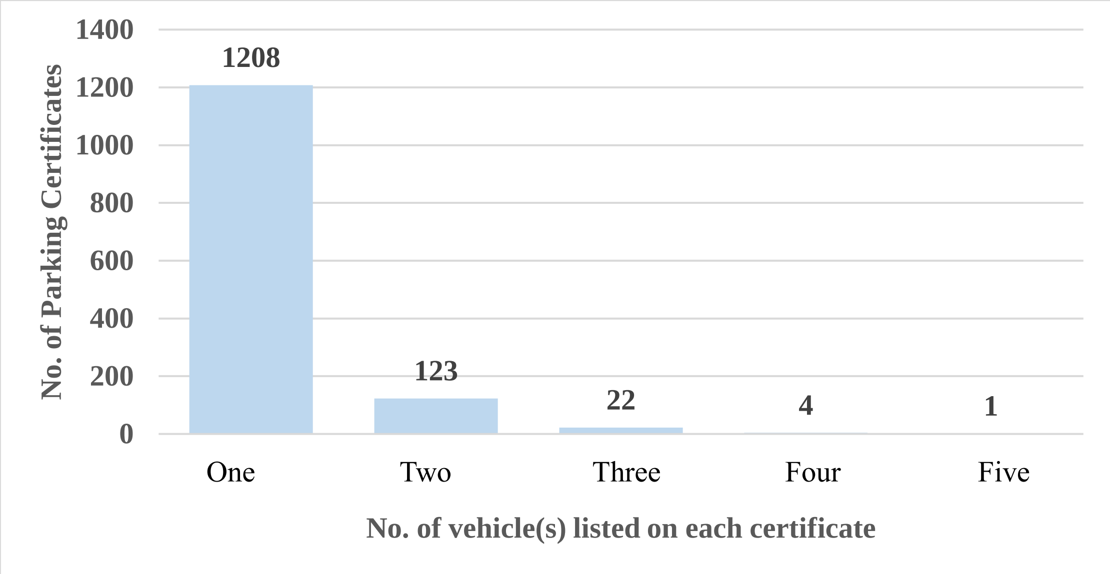
(3) Number of Vehicles Registered

3.24 TD allows applicants to register more than one vehicle on the Parking Certificate for carrying the specified person with LLMD. TD explained that applications with more than one vehicle were mostly made by family members on the grounds that they had to share the duty of carrying the person with LLMD. Given that such applications were not unreasonable, TD would usually approve them. TD added that it has not set an upper limit for the number of vehicles registered, and would consider each application according to actual circumstances. TD so far had approved an application with five vehicles at the most.

3.25 TD said that applicants who wish to change their application particulars, such as the vehicle registration mark, the name of registered vehicle owner, the number of vehicle(s) registered, should submit updated information to TD for approval. According to the points to note for the Parking Certificate, the vehicle registration mark(s) in subsequent application(s) for carrying the same person with LLMD will be added on the same Parking Certificate, subject to the application result. Before a new certificate is issued, applicants are required to surrender the old one to TD by post. Whether it is a new application, renewal application or application for changing information, upon approval TD will issue only one Parking Certificate in respect of each person with LLMD listing the vehicle registration marks for carrying that person, so that the certificate can only be used by one of the vehicles at any given time. Consequently, listing more than one vehicle on a Parking Certificate would not increase the number of vehicles entitled to use DPS at the same time.

3.26 Between 29 January 2021 and 28 February 2022, TD issued 1,358 Parking Certificates, of which 1,208 (89%) listing one vehicle, 123 (9%) listing two, and 27 (2%) listing more than two. The statistics are given in **Figure 1**.

Figure 1: **Number of Parking Certificates issued between 29 January 2021 and 28 February 2022 (with breakdown by number of vehicles listed on each certificate)**



(4) <u>Vehicle Types and Specifications</u>

3.27 At present, TD has not imposed any restriction on the type and specification of vehicles used for application of Parking Certificate. There are members of the public noted that Parking Certificates were issued in respect of two-door sports cars and light vans. As two-door sports cars with low ground clearance are inconvenient for the boarding/alighting of disabled passengers and light vans are usually for commercial purposes, they considered those applications should not be allowed.

3.28 Subsequent to the launch of this direct investigation, TD sought advice from QEH Rehab Centre regarding the size, ride height/ground clearance and number of doors of the vehicles used for carrying persons with LLMD. QEH Rehab Centre considered that there is basically no hard and fast rule about which vehicle models/brands are more suitable or not suitable for the purposes. Some persons with LLMD rely on large-scale wheelchairs with special functions; some need other aids such as ordinary wheelchairs, walking frames or sticks. Their lower limb functions might also vary. For instance, some people can only walk a short distance because of cardiopulmonary conditions; some can board a vehicle unaided, while some need assistance to do so. As such, QEH Rehab Centre generally suggested that people with disabilities should select a vehicle type according to their own circumstances and need of walking aids.

3.29 TD explained that applications for Parking Certificate were generally made in respect of private vehicles, but around 2% were in respect of light vans. In fact, some Parking Certificate applicants only owned a light van with actual functions similar to a private vehicle, which is practical for storing a wheelchair and carrying the person with LLMD. Since the level of physical mobility and lower limb disabilities of individuals vary, and they might need assistance to get on/off the vehicle, it is difficult to assess and verify whether the vehicle used for application is suitable for carrying them simply based on the model and size of vehicle, the size and number of doors, etc. Referring to the practices in the United Kingdom, the United States and Singapore, TD found that none of these jurisdictions have any restriction on the models or specifications of vehicles used by people with disabilities.

3.30 Nevertheless, when processing applications for Parking Certificates, TD would obtain further information from the applicants where necessary, such as photographs and/or video clips showing the disabled passengers getting on/off the vehicles to ensure that the vehicle used for the application is suitable for relevant purposes.

SANCTIONS AGAINST NON-COMPLIANCE

DPPP

3.31 Pursuant to the Regulations, the Commissioner for Transport ("C for T") may cancel a DPPP for breach or contravention of any provision of these regulations or any condition of the DPPP, and shall notify its holder of such cancellation in writing.

3.32 Upon receiving TD's notice of cancellation or refusal to renew, the holder of e-Permit shall immediately ensure that no printout of the DPPP is displayed on the vehicle; the holder of paper permit, in addition to not displaying it, shall also surrender it to TD within three days. DPPP holders failing to comply with the above provisions without reasonable excuse commit an offence and are liable to a maximum fine at $2,000.

Parking Certificate

3.33 The conditions of issue specify that TD may cancel a Parking Certificate in case of abuse by its holder. According to the established procedures, TD would issue

a warning letter to the holder for the first violation. Where repeated or persisting abuses are found, TD would consider cancelling the Parking Certificate. Same as DPPP, Parking Certificate can also be issued in electronic form as requested by applicants in future, hence the duties after cancellation cited in **paragraph 3.32** are also applicable to Parking Certificate holders. Nevertheless, given that Parking Certificate is issued by administrative means, holders who do not surrender the paper certificate or cease to display the invalid certificate on the vehicle as instructed are not in breach of the law, and thus not liable to any sanctions.

SUMMARY OF APPROVAL CRITERIA AND CONDITIONS OF USE FOR DPPP AND PARKING CERTIFICATE

3.34 Summing up the information above, major points about the parking concessions offered by DPPP and Parking Certificate in terms of eligibility and approval criteria, conditions of use and sanctions against non-compliance are listed in **Table 1**.

Table 1: Summary of approval criteria and conditions of use for DPPP and Parking Certificate

Item	DPPP	Parking Certificate
Scope of use		
Parking concessions	• Using DPS for free • Using on-street metered spaces for free • Using designated parking spaces inside Government multi-storey carparks managed by TD at half rate	• Using DPS for free when carrying specified person with LLMD • Using designated parking spaces inside Government multi-storey carparks managed by TD when carrying specified person with LLMD at full rate
Validity period of DPPP or Parking Certificate		
Validity period	• Three years and renewable	• A maximum of three years (according to assessment of qualified person) and renewable

Item		DPPP	Parking Certificate
Eligibility and approval criteria			
Applicant		• Disabled person qualified to drive the vehicle with full driving licence, learner's driving licence or probationary driving licence	• Holder of full driving licence or probationary driving licence
Registered owner of the vehicle used		• Applicant or applicant's spouse (who is also a disabled person)	• Applicant or the person with LLMD to be carried
Vehicle used	**Type**	• Private car, motor cycle or motor tricycle specified under the Regulations, and vehicle modified for suitable use by the applicant	• No restriction on vehicle types, with vehicle height not exceeding the headroom of carparks managed by TD (2 to 2.4 metres)
	Number	• One	• No upper limit, with application approved according to actual circumstances; the maximum number approved so far is five in one case
Disability condition of driver/ passenger	**Disability condition**	• Disabled person, as defined under the RTO, suffering from a permanent disease or physical disability that causes considerable difficulty in walking (see **note 4** in **para. 3.3**)	• Person suffering from lower limb mobility disabilities • Registered doctor or physiotherapist to issue supporting document and specify the probable duration of the passenger's disability condition

Item	DPPP	Parking Certificate
Qualified persons to conduct assessment	• Medical officer and occupational therapist of QEH Rehab Centre to assess fitness to drive of driving licence applicant with disabilities	• Registered doctor or physiotherapist to assess disability condition of passenger with LLMD
Conditions of use for DPS		
Time limit	• Not more than 24 hours each time, or else in breach of the law enforced by Police	• Not more than 24 hours each time, or else in breach of the law enforced by Police
User limit	• Vehicle to be driven by disabled driver who holds the DPPP	• Vehicle specified on certificate carrying the person with LLMD named in application when driven in and/or out of the DPS
Consequence of non-compliance	• C for T may cancel or refuse to renew the DPPP pursuant to the Regulations • Holder having been notified of the cancellation should cease to display the DPPP on vehicle (DPPP in paper form should also be surrendered to TD); non-compliance with this provision without reasonable excuse is an offence and liable to a maximum fine at $2,000	• TD will issue warning letter to holder for first violation, and will consider cancelling the certificate for repeated or persisting abuses • Holder having been notified of the cancellation should cease to display the certificate on vehicle (certificate in paper form should also be surrendered to TD); no offence and sanctions involved for non-compliance with this provision

3.35 There are public views that application for DPPP is rather complicated, where applicants are required to undergo medical assessments and driving ability tests before the issue of DPPP. On the other hand, the application threshold of Parking Certificate is low, requiring only the confirmation of disability condition by registered doctors or registered physiotherapists. Therefore, some members of the public suggested that to ensure consistency of assessment, persons with LLMD specified in Parking Certificates should also be assessed by medical officers of QEH Rehab Centre, and Parking Certificates should only be issued in respect of a disabled person within the statutory definition, i.e. a person suffering from a permanent disease or physical disability that causes considerable difficulty in walking.

3.36 However, there are also views that DPPP holders are assessed by TD and medical officers with a view to ensuring their fitness to drive for issuing a driving licence, while the persons with LLMD to be carried by Parking Certificate holders are subject to different assessment of their physical condition, hence the different approval criteria. The approval criteria for DPPP and Parking Certificate should be based on the inconvenience caused to persons with LLMD by their disability condition, and focused on their needs. It is suggested that TD should consider issuing Parking Certificates to the persons with LLMD direct instead of to the able-bodied drivers.

APPLICATION FOR AND ISSUE OF DPPP AND PARKING CERTIFICATE

3.37 Statistics of application for and issue of DPPPs and Parking Certificates within one year before and after the launch of the new measure are given in **Figures 2 and 3**.

Figure 2: Application for DPPPs and Parking Certificates within one year before and after the launch of new measure (between 29 January 2020 and 31 October 2021)

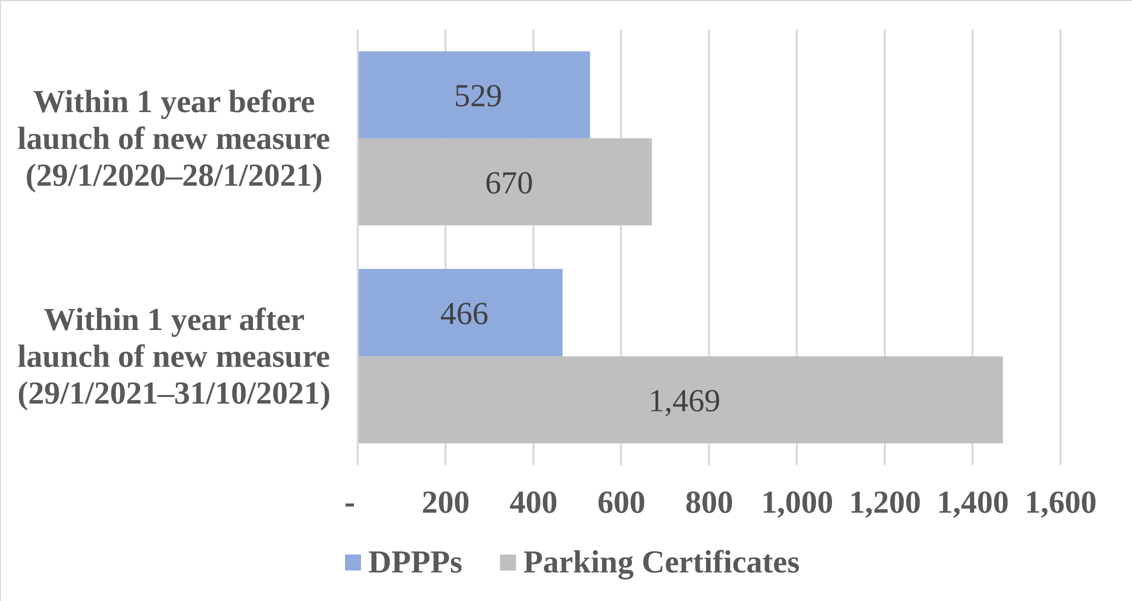
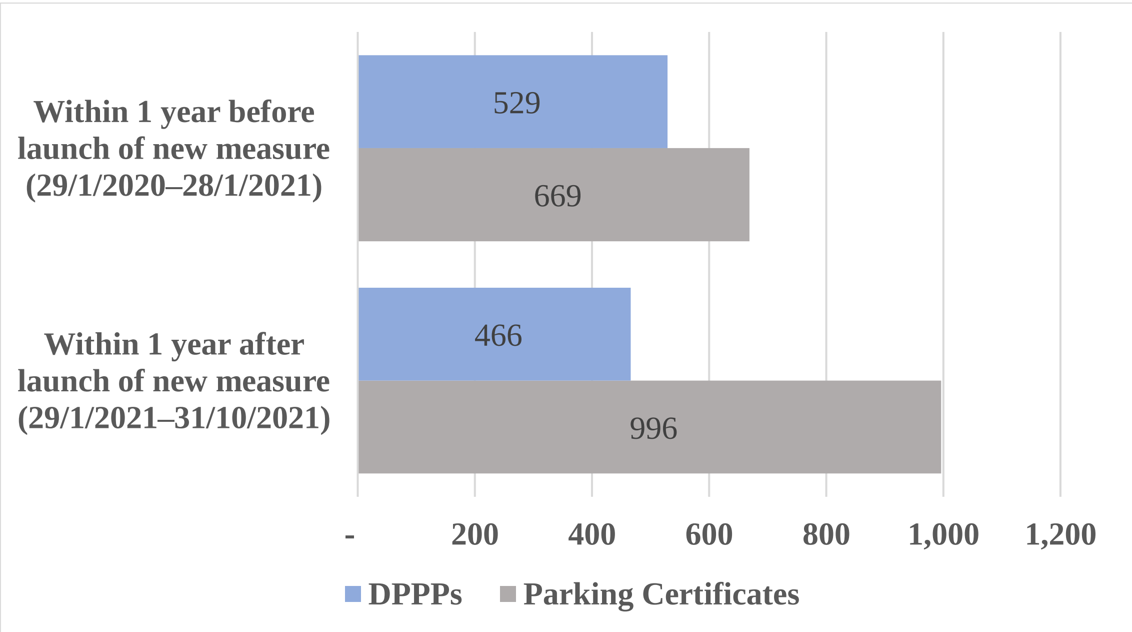


Figure 3: DPPPs and Parking Certificates issued# within one year before and after the launch of new measure (between 29 January 2020 and 31 October 2021)



Including new issues and renewals

3.38 **Figures 2 and 3** show a decrease in both application for and issue of DPPPs after the launch of the new measure. On the contrary, there was a more than twofold increase in the application for Parking Certificates (from 670 to 1,469), and a 30% increase in the certificates issued (from 669 to 996).

3.39 As at November 2022, there were 522 DPS in Hong Kong, while 1,703 DPPPs and 2,729 Parking Certificates were issued and valid (see **paras. 1.2 and 2.6**). In the past, only DPPP holders were entitled to use DPS, and the ratio of DPS to DPPP holders before the launch of the new measure was 1: 4 (i.e. four people competing for one parking space). The new measure has significantly increased the number of people entitled to use those spaces, with the ratio of DPS to DPPP/Parking Certificate holders rising to 1: 8.5 (i.e. more than eight people competing for one parking space).

4

REGULATORY WORK RELATED TO DISABLED PERSON'S PARKING PERMIT AND PARKING CERTIFICATE FOR DRIVERS WHO CARRY PEOPLE WITH MOBILITY DISABILITIES

ABUSE OF DESIGNATED PARKING SPACES

4.1 Quite a few public views received by this Office pointed out that the abuse of DPS has obviously aggravated after launch of the new measure, but TD has not put in place effective checks against the situation. The conditions of use for Parking Certificate stipulate that its holder must have the specified person with LLMD on board when driving the vehicle in and/or out of a DPS. However, from time to time Parking Certificate holders were spotted using DPS when not carrying persons with LLMD. These suspected abuses were particularly serious in busy districts, such as Tsim Sha Tsui, Mong Kok and Wan Chai.

4.2 While TD is exploring a smart monitoring system to enhance its control over the usage of DPS, it currently has no substantive measures to effectively monitor the compliance of the above conditions of use. Unless TD conduct monitoring by

deploying staff on-site or arranging CCTV surveillance at different locations, it would be difficult to verify whether Parking Certificate holders are carrying persons with LLMD when driving in or out of DPS.

4.3 Meanwhile, vehicles are now allowed to use DPS for a maximum of 24 hours each time. As DPPP and Parking Certificate holders can park in DPS free of charge without going through any procedures (such as card tapping), prolonged occupation by the same vehicle is common. The lack of measures by the authority to promote the turnover of DPS has affected the opportunity of disabled drivers and carers who carry persons with LLMD to use DPS.

ENFORCEMENT AGAINST PARKING ABUSE

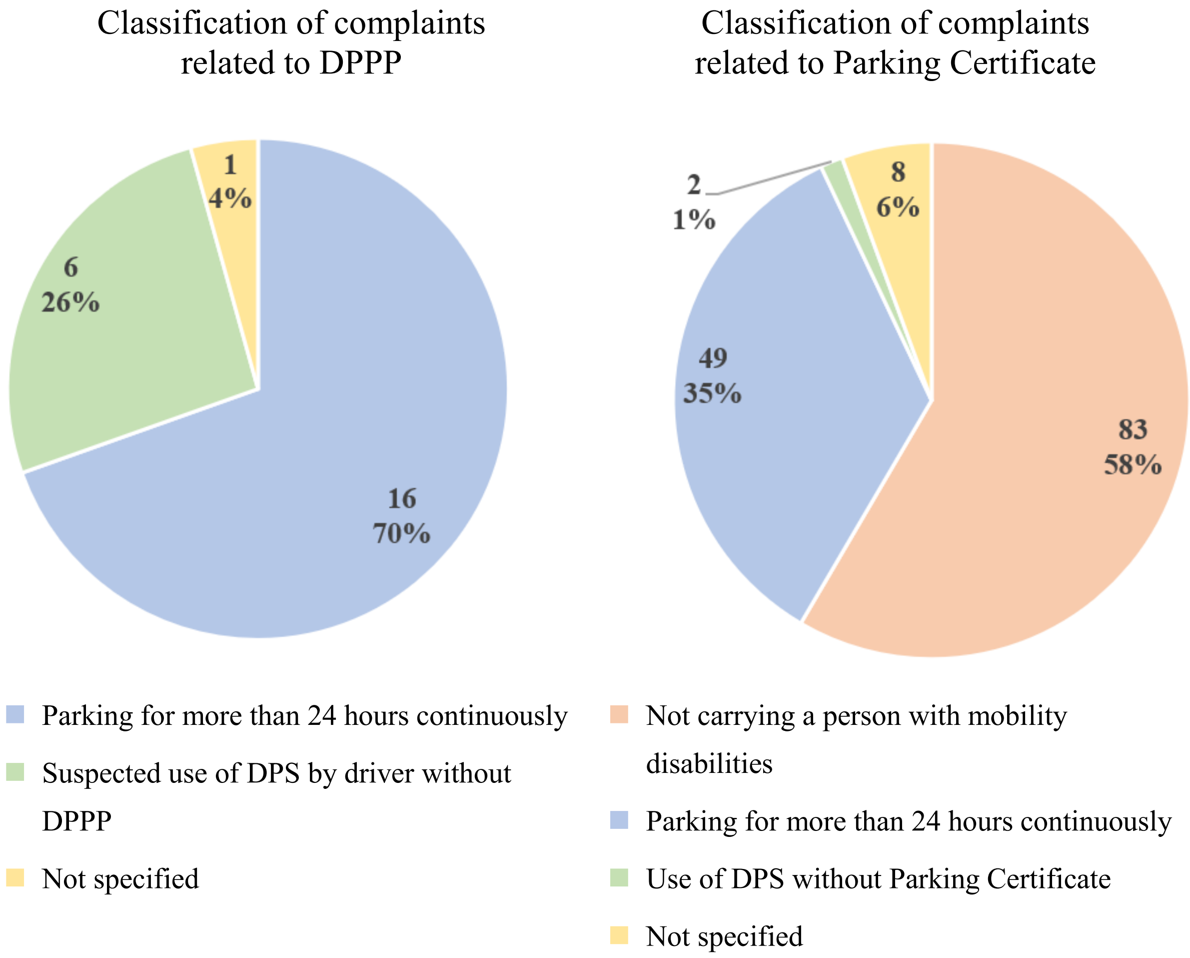
(1) Investigation and Follow-up Action

4.4 Since the launch of the new measure, TD has regularly surveyed locations with high usage rate (i.e. DPS in busy urban districts frequently used by people with disabilities), or locations with complains or reports from the public, to monitor any abuse. Between 29 January and October 2021, TD conducted 64 on-site surveys, or an average of eight surveys per month. Upon receiving reports of suspected abuse of particular DPS, TD would conduct more in-depth investigation. Since March 2022, TD has allocated more resources for on-site surveys and monitoring the usage of DPS.

4.5 TD said that using DPS without DPPP or Parking Certificate, or parking for a continuous period of more than 24 hours, is in breach of the Regulations. Such cases are referred to the Hong Kong Police Force ("HKPF") for follow-up and enforcement action. TD will issue letters requiring DPPP or Parking Certificate holders suspected of having misused DPS to explain. In respect of Parking Certificate holders, TD will conduct further investigation into suspected breach of the conditions of use, including driving in or out of DPS when the person with LLMD named in TD's approval letter was not on board. If the abuse is confirmed, TD will issue a warning letter for the first violation to remind the Parking Certificate holder to stringently comply with the conditions of use. If repeated abuse is found, TD will cancel the Parking Certificate. TD also provides HKPF with information of cancelled certificates for police officers to take follow-up action in case of finding the invalid certificates are still in use.

4.6 Between February 2021 (i.e. after the new measure was launched) and February 2022, TD received 23 and 142 complaints related to DPPP and Parking Certificate respectively. TD referred 23 suspected cases (of which 2 and 21 were related to DPPP and Parking Certificate respectively) of parking continuously in DPS for more than 24 hours to HKPF. Other complaint cases were investigated and followed up by TD. Investigation results showed no abuse of DPS in most cases. Classification of the complaints received is given in **Figure 4**.

Figure 4: Classification of complaints received by TD related to DPPP and Parking Certificate between February 2021 and February 2022



4.7 According to TD's information, as at October 2022, 20 Parking Certificates had been cancelled due to parking abuse. All the 20 certificates had been surrendered to TD. TD generally required holders to surrender the cancelled certificates by post within ten days after the issue of notice. In the above 20 cancellation cases, TD received the Parking Certificates in eight days to around two months.

(2) Application of New Technology

4.8 TD is exploring feasible solutions jointly with the service contractors of electronic parking meters to strength monitoring the usage of DPS. The preliminary ideas are to install smart monitoring system for DPS, including using automatic sensors to detect and record the vehicle registration marks of the vehicles driven in the space as well as the parking duration of the vehicles. If a vehicle fails to display a valid DPPP or Parking Certificate, or its parking duration exceeds 24 hours, the monitoring system will alert HKPF to follow up. Furthermore, DPPP/Parking Certificate holders and the persons with LLMD named on the certificates will be required to tap their Personalised Octopus Cards with portrait on the new device installed for DPS to record their usage. TD has obtained views about the monitoring system and trial runs from relevant organisations through the Working Group on Access to Public Transport by People with Disabilities ("Working Group")[9]. TD plans to conduct trials of the smart monitoring system at selected locations in the first half of 2023.

(3) Duration of Using Designated Spaces

4.9 TD explained that persons with LLMD (including children or seniors with quadriplegia/hemiplegia) need to be accompanied by Parking Certificate holders to attend medical appointments at hospitals/clinics or for other special purposes. After carrying the persons with LLMD to the destination and parking in DPS, Parking Certificate holders might not be able to drive their vehicles away immediately or shortly. In actual circumstances, it might be untenable for TD to tighten the maximum time limit of using DPS by Parking Certificate holders. Besides, to prevent disparity of treatment between people with disabilities, any consideration to further limit the duration of using DPS should be applicable to both DPPP and Parking Certificate holders, not just the latter.

4.10 TD has raised the issue in the Working Group for discussion, where members could not reach a consensus on further limiting the duration of using DPS by DPPP and Parking Certificate holders. In the meeting, a disabled organisation expressed reservations over the proposal on the grounds that motorists are generally allowed to park in on-street metered spaces for not more than 24 hours. TD will carefully consider the arrangement and consult stakeholders.

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9 TD has established the Working Group for regular meetings and consultations with representatives of people with disabilities to explore further improvements to public transportation catering to their needs or barrier free facilities.

(4) Parking Fees

4.11 At present, the Government allows DPPP and Parking Certificate holders to use DPS for free. The purposes are enhancing the mobility of people with disabilities, easing their burden and promoting their social integration. TD has referred to overseas practices, including the United Kingdom, Italy, Germany, and found that all those jurisdictions allow people with mobility disabilities to use designated parking spaces for free. Regarding whether DPPP and Parking Certificate holders should be charged fees for using DPS, TD considered the arrangement would have an impact on the mobility of people with disabilities, whose views are of significance and must be taken into account carefully by the Government.

5

CASE STUDIES AND PRACTICES IN OTHER REGIONS

CASE STUDIES

5.1 During this investigation, this Office has scrutinised TD's relevant case files, including cancellation of Parking Certificates and complaints, to examine how TD followed up those cases and the actions taken. This chapter analyses three of the cases and a public complaint received by this Office (all the Parking Certificates involved are in paper form).

Case (1)

5.2 This Office received a complaint from a member of the public, who had applied to TD for the Parking Certificate in April 2021, with supporting documents issued by a registered physiotherapist certifying the condition of the specified person with LLMD. In July 2021, TD wrote to him asking for supplementary documents with further details about the disability condition of the person with LLMD, and how long the condition was likely to last. The complainant criticised TD for taking too long to process his application, and considered it unreasonable to ask for supplementary information several months after his submission of application.

5.3 TD explained that to strengthen the processing of applications, it revised the application form and the points to note on 1 June 2021, requiring applicants to attach supporting documents issued by registered doctors or registered physiotherapists, which should also specify how long the passenger needed to use the Parking Certificate. TD asked the complainant to submit supplementary documents in light of the above change. TD added that there was a surge of applications upon the launch of the new measure,

and apologised for not handling the complainant's application promptly due to manpower constraints. After receiving the complainant's supplementary information, TD issued a Parking Certificate to him in August 2021.

5.4 In this case, TD revised its approval criteria just a few months after introducing the new measure, indicating that it was unable to accurately gauge stakeholders' response and adjust the new measure's operational details upon its launch. Moreover, the applicant was required to submit supplementary information due to the revised approval criteria, and the progress of his application was affected by the increased caseload and insufficient manpower.

Case (2)

5.5 A Parking Certificate was cancelled due to repeated abuses of DPS by its holder (including using DPS when the person with LLMD was not on board, and the vehicle was not driven by the certificate holder). In September 2021, TD issued a letter informing the holder of the cancellation and requiring him to surrender the Parking Certificate, but no reply was received. TD later received the holder's appeal. After reviewing the case, TD issued a letter again in November 2021 upholding the decision to cancel the certificate and requiring the holder to surrender it. In late November, the holder, who disagreed with the decision, requested TD to give him another chance. During an inspection in December 2021, TD found the holder still parking his vehicle in DPS. In mid-January 2022, TD informed the holder of its final decision to cancel the certificate. Eventually, the holder surrendered the certificate to TD in late January 2022. TD subsequently referred this case to HKPF for suspected use of false certificate.

5.6 In this case, the holder ignored TD's repeated reminders for surrender of the cancelled certificate. The holder did not surrender it until two months after TD had completed handling his appeal and issued the first notice to uphold the decision of cancelling the certificate. In the interim, the holder was suspected of misusing DPS.

Case (3)

5.7 TD issued a Parking Certificate in respect of the same person with LLMD to two registered vehicle owners (i.e. two applicants), with two vehicle registration marks listed thereon ("Certificate (1)"). Subsequently, the holders applied for adding one more vehicle owned by a third person (i.e. the third applicant). TD then issued an

updated Parking Certificate listing all three vehicle registration marks ("Certificate (2)").

5.8 Shortly afterwards, the Parking Certificate was cancelled due to one of the holders parking for more than 24 hours continuously. In August 2021, TD informed the holders of the cancellation by writing and required them to surrender the certificate. The holders immediately appealed against TD's decision. In September, TD's inspection found that two of the vehicles approved on the same certificate were parked in two DPS concurrently in different districts, with Certificates (1) and (2) displayed on the vehicles respectively, breaching the conditions of use. After reviewing the case, TD informed the holders in November 2021 of its decision to uphold the cancellation, and required them to surrender Certificates (1) and (2). Since the two invalid certificates were not received, TD wrote to the holders again in December asking them to surrender the certificates, and also informed HKPF of the invalid certificates. Eventually, the holders surrendered the certificates to TD in early January 2022.

5.9 In this case, TD issued a new certificate (Certificate (2)) without confirming the receipt of the old one (Certificate (1)) from the applicants.

Case (4)

5.10 Neither the Parking Certificate applicant (a father) nor the person with LLMD (his daughter suffering from acute myeloid leukaemia) was the registered owner of the vehicles used for the application. In the application form, the applicant specified three vehicles registered in the name of three different friends, each of them authorised the applicant to drive the vehicle to carry his daughter when there was an urgent need. TD explained that it approved the application on compassionate grounds in view of the exceptional circumstances.

5.11 TD requires either the Parking Certificate applicant or the person with LLMD to be the registered owner of the vehicle used (see **para. 3.18**). However, in this case it accepted the application with vehicles owned by third parties, evidently inconsistent with the stated eligibility criteria.

OUR OBSERVATIONS

5.12 In addition to the four cases above, this Office has the following observations after scrutinising TD's case files.

Compliance with Conditions of Use and Restrictions

5.13 In most of the cases where the complaint was substantiated, the Parking Certificate holders admitted that they had not complied with the conditions of use, including not having the person with LLMD on board when using DPS. Many holders argued that they were unclear about the conditions of use and wrongly understood that they could park their vehicles in DPS after carrying the persons with LLMD to the destination.

Handling of Suspected Parking Abuse

5.14 Among TD's case files, this Office noted a case of suspected parking abuse where TD issued a letter to the Parking Certificate holder requiring him to explain. The holder admitted that he was not carrying the person with LLMD when using DPS. Before TD managed to issue a warning letter, it received another complaint against the same holder for misusing DPS, which the holder also admitted verbally. However, TD only issued one warning letter in respect of the two violations without cancelling the Parking Certificate. Meanwhile, some cases showed that TD's follow-up and enforcement action was affected if the Parking Certificate holders did not reply with explanation for the alleged parking abuse by the deadline specified.

5.15 This Office also noted that TD would not follow up and investigate each and every complaint about parking abuse once the Parking Certificate holders denied that they had violated the conditions of use. Citing resource constraints, TD often only pursued those cases with repeated complaints. Moreover, after referring to HKPF the suspected cases of continuously parking in DPS for more than 24 hours, TD would only follow up those cases deemed to be more serious in nature with HKPF. As such, TD could not fully come to grips with the abuse of DPS.

Number of Vehicles Listed on Each Parking Certificate

5.16 Most applicants who applied for registering three or more vehicles on the Parking Certificate did not explain to TD why multiple vehicles were needed. This Office noted an application in September 2021 for adding a fourth vehicle on the Parking Certificate. The case showed that a TD officer informed the applicant by phone that TD no longer accepted the listing of four vehicles on the same certificate. However, TD did not clearly specify the upper limit allowed on each certificate and the relevant

provisions, and why the application was rejected. The explanation given by the TD officer in that case was also at odds with TD's approval of an application with five vehicles (see **para. 3.24**).

Relationship among Applicant, Registered Vehicle Owner and Person to be Carried

5.17 Among the cases examined by this Office, most applicants (who were also the vehicle owners) were a relative of the person to be carried. Some applicants were a friend or employee of the person to be carried.

5.18 Moreover, TD accepted application for Parking Certificate with a vehicle registered in the name of incorporated company/organisation (with an annual return attached with the application). Apart from the scenario in **case (4)**, registered vehicle owners, which were companies/organisations, might authorise other persons to be the applicants of Parking Certificate to drive their vehicle for carrying the persons with LLMD. In these cases, neither the applicant nor the passenger was the registered vehicle owner:

Scenario (1): A shareholder of an incorporated company authorised an employee (applicant) to drive a vehicle (registered in the name of the company) to carry the shareholder's relative (person with LLMD).

Scenario (2): A shareholder of an incorporated company authorised two relatives (applicants) to drive two vehicles (registered in the name of the shareholder and the company respectively) to carry the shareholder's relative (person with LLMD).

PRACTICES IN OTHER REGIONS

United Kingdom

5.19 In the United Kingdom, the Blue Badge is a parking permit issued to eligible drivers or passengers with disabilities (to be displayed when on board a vehicle). The scheme allows them or the person/organisation carrying them to park closer to their destinations. Blue Badge holders are allowed to park free of charge in on-street

designated spaces, metered spaces and Pay and Display bays without time limit. They can also park on single or double yellow lines for up to three hours, except where there is a ban on loading or unloading. Misuse of badges is a criminal offence liable to a maximum fine of £1,000 and confiscation of the badges.

Canada

5.20 In Canada, parking badge policies and programmes for people with disabilities come under provincial and territorial government authority. Policies might vary from one jurisdiction to another, but there are common elements in terms of operation. In particular, all jurisdictions are required to provide designated parking spaces for vehicles carrying people with mobility disabilities; a parking permit is issued to a person with disability, not a specific vehicle, for that person's use only; and the person with disability must leave and board the vehicle while it is parked in the designated parking space.

Singapore

5.21 In Singapore, designated parking spaces are provided for people with physical disabilities or their carers under the Car Park Label Scheme. There are two types of parking labels under the scheme for holders to park in public carparks. The first one is issued exclusively to motorists with mobility disabilities for use while driving a registered vehicle. As for the second type, the applicant will be issued a label only for use when carrying a passenger with mobility disabilities on a registered vehicle. After parking in a designated parking space, the driver is allowed one hour to assist the passenger with mobility disabilities to get on/off the vehicle, after which the vehicle must be driven to a standard parking lot.

Taiwan

5.22 In Taiwan, according to the Administrative Measures for the Establishment of Designated Parking Spaces for Persons with Physical or Mental Disabilities, persons identified as suffering from physical or mental disabilities based on needs assessment, their spouse or one of their relatives (registered under the same household or under separate households at the same address) can apply for a certificate to use parking spaces designated for persons with physical or mental disabilities. The certificate is to be used when a registered vehicle is driven by the disabled person, or by the spouse or relative with the disabled person on board. The spouse or relative is not

allowed to use the certificate when not carrying the disabled person. The types of vehicles eligible for application of certificate are restricted to self-use passenger vehicle, self-use light van, and taxi. Small truck for self-use, rental vehicle, company vehicle, etc., are not eligible. Any person violating the terms or conditions of use will have the certificate cancelled and be barred from re-applying for three years.

6

COMMENTS AND RECOMMENDATIONS

PREAMBLE

6.1 The provision of DPS involves both the on-street parking policy and the policy of transport for people with disabilities. In handling relevant issues, TD has to consider and balance the two aspects. Same as DPPP holders, the passengers carried by Parking Certificate holders also suffer from lower limb mobility disabilities, but they are unfit to drive because of age or severe levels of disabilities. They need a carer to accompany and drive them around. TD's new measure extended the eligibility for using DPS to Parking Certificate holders to cater for the travel needs of people with disabilities, with an aim of promoting their social integration as well as supporting and easing the burden of carers. This Office agrees that these objectives are in line with the current policy direction.

6.2 Nevertheless, before achieving these objectives by administrative means, TD apparently has not anticipated that when the holders of both documents are allowed to use DPS for free, the discrepancies between DPPP and Parking Certificate in terms of approval criteria, checks against abuse, etc., may cause problems. TD should ensure that people with comparable levels of lower limb disabilities, either as drivers or passengers, are equally entitled to use DPS. However, TD's launch of the new measure without rationalising the discrepancies and in-depth assessing the potential problems upon implementation could easily aggrieve the parties affected. This direct investigation has revealed the following inadequacies on the part of TD in formulating the new measure, assessing the supply and demand of DPS, processing applications, preventing abuse and handling complaints.

(I) PROCESS OF FORMULATING NEW MEASURE

Failing to Consult Stakeholders

6.3 TD formulated and introduced the new measure against the special background as detailed in **paragraph 3.13**. As such, no public consultation had been conducted, nor had TD collected the views of stakeholders (such as DPPP holders, representatives of people with disabilities and/or their carers, qualified persons responsible for assessment of disability condition, etc.). Not only did TD miss the opportunity to refine the new measure's operational details and foster a consensus through extensive and thorough consultation and discussion, the lack of transparency during the formulation process also created a negative perception of the new measure among the stakeholders affected.

Causing Confusion and Frustration by Hastily Changing Requirements and Conditions of Use

6.4 TD requires Parking Certificate applicants to attach documents certifying the disability condition of the person to be carried. When introducing the new measure, TD initially adopted the original practice before expanding the scope of Parking Certificate, i.e. in addition to registered doctors and registered physiotherapists, it also accepted school principals and registered nurses as qualified persons to issue the relevant certification. However, since 1 June 2021 (i.e. around four months later), only registered doctors and registered physiotherapists are accepted as qualified persons. They are also required to specify on the supporting documents how long that person's disability condition is likely to last according to assessment.

6.5 Between the launch of the new measure and the revision of approval criteria, only around 1% of the total applications were made with supporting documents issued by school principals and registered nurses (see **para. 3.22**). Nevertheless, given that TD revised the approval criteria after just a few months, it would inevitably give an impression that the new measure was introduced hastily without comprehensive and proper assessment, and would also confuse Parking Certificate applicants. **Case (1)** in **Chapter 5** involved an applicant who was required to submit supplementary information because of the revised approval criteria, and the application process was further delayed because of TD's insufficient manpower to handle a surge in applications.

6.6 Apart from tightening the approval criteria for Parking Certificate, TD also revised the wording of its conditions of use after launching the new measure:

Period	Conditions of using DPS by Parking Certificate holders
Before launch of new measure (prior to 29/1/2021)	This Parking Certificate only provides convenience to drivers who carry a person with mobility disability **to park their vehicles** at the designated parking spaces inside **government multi-storey carparks managed by TD**.
Initial period after launch (from 29/1 to 31/5/2021)	This Parking Certificate provides the driver who carries a person with mobility disability **to park his/her vehicle at the on-street parking spaces for the disabled** and the designated parking spaces inside the government multi-storey carparks managed by TD.
Subsequent period after launch (since 1/6/2021)	This Parking Certificate only provides the driver who carries a person with lower limb mobility disability **to park his/her vehicle at the on-street parking spaces for the disabled** and the designated parking spaces inside the government multi-storey carparks managed by TD. When the Parking Certificate holder **drives the approved vehicle in and/or out of the parking spaces**, the person with lower limb mobility disability to be carried as listed on approval letter should be on board.

6.7 Upon the launch of the new measure, this Office received complaints from Parking Certificate holders against TD for the unclear meaning of "park the vehicle" on the certificate, after they were suspected by the Police of misusing DPS. In fact, TD explained that it revised the application form and points to note (i.e. specifying that the vehicle is driven in and/or out of the DPS) based on public complaints alleging that Parking Certificate holders might not understand the meaning of "park the vehicle", resulting in their use of DPS when not carrying the persons with LLMD. Although it is understandable that Government departments would review and revise measures in light of actual circumstances, TD receiving public complaints and views shortly after launching the new measure and revising the Parking Certificate's conditions of use within a few months reflected that it had not carefully considered the operational details and possible scenarios. Revising the requirements and conditions of use within a short span of time was also confusing and easily led to misunderstanding.

6.8 This Office considers that TD should draw on the experience, effectively use various communication channels to engage stakeholders, thereby formulating comprehensive and proper solutions to better respond to their demands.

(II) SUPPLY AND DEMAND OF DESIGNATED PARKING SPACES

Lack of Effective Measures to Balance Supply and Demand and to Promote Turnover of Parking Spaces

6.9 DPS are provided to facilitate the moving around of people with disabilities in the community. Before launching the new measure, TD had surveyed the usage rates of DPS (see **paras. 2.7 and 2.8**) and considered there was room for opening up DPS to Parking Certificate holders. TD's data showed that after the launch of the new measure, the ratio of DPS to holders of DPPP/Parking Certificate has increased from 1: 4 to 1: 8.5 (see **para. 3.39**). The extra demand brought about by the new measure has aggravated the imbalance in supply and demand, such that the survey results obtained before its launch are of little reference value at present. The current situation is a drastic increase in the number of people with disabilities entitled to use DPS but lower chance of using one by each of them.

6.10 TD provides on-street parking spaces to cater for the short-term parking need of motorists, thereby preventing prolonged parking and promoting turnover of parking spaces (see **para. 2.1**). DPS should also cater for short-term parking need. Yet, DPS are free to use without any requirement for registration or parking records. It is difficult to verify whether a vehicle has overstayed, and there are no practical measures to promote turnover of DPS.

6.11 Increasing the supply of DPS can certainly alleviate the shortage, and TD is planning to do so (see **para. 2.6**), but the fact remains that the increase of DPS lags far behind the increase of Parking Certificate holders (see **para. 3.39**). As pointed out above (see **para. 6.1**), the provision of DPS involves both the on-street parking policy and the policy of transport for people with disabilities. We consider it essential for TD to clarify the policy direction of having DPS and fully assess the supply and demand. TD should weigh up all factors and set a target ratio of DPS to DPPP/Parking Certificate holders for long-term planning and developing ancillary facilities, as well as managing the expectations of holders and applicants. It should also collect and compile data on the supply and demand for DPS, including conducting regular surveys on usage rates

(especially during peak hours) for systematic analysis of the existing and future supply and demand. Moreover, TD should draw up a schedule for regular review of progress of the tasks, and properly adjust its actions and follow up based on the results obtained.

Failing to Disseminate Information about Usage Rates of Designated Parking Spaces

6.12 Before launching the new measure, TD had surveyed the usage rates of DPS (see **paras. 2.7 and 2.8**). Nevertheless, TD has not released the survey results, such that stakeholders are not fully aware of the demand for those spaces.

6.13 The usage rates of DPS reflect its demand. Data obtained from regular surveys provide the basis for policy formulation to facilitate the fair and effective allocation of public resources. This Office considers releasing such data conducive to higher transparency of Government administration and operation, thereby enhancing the public's awareness (especially stakeholders affected) of the policy rationale and engaging their support for the policy and relevant measures. In particular, TD should provide the survey results when liaising with members of the Working Group (see **para. 4.8**) regarding the usage of DPS and the scope of Parking Certificate.

(III) CRITERIA OF DPPP AND PARKING CERTIFICATE

6.14 Both DPPP and Parking Certificate provide parking concessions to facilitate the moving around of people with disabilities in the community. Yet, due to their different regimes and backgrounds, DPPP and Parking Certificate have their own sets of approval procedures and eligibility criteria. DPPP is issued under the Regulations with eligibility criteria prescribed by law (including that the applicant is required to be a qualified disabled person holding a driving licence). Parking Certificate, on the other hand, is issued by administrative means, and TD can adjust the relevant requirements and measures according to circumstances. While TD stressed that people with disabilities, either as drivers or passengers, have equal need to use DPS, there are discrepancies between their approval criteria and conditions of use (see **Table 1** in **para. 3.34**), and these discrepancies cause problems of various degrees.

To Rationalise the Relationships among Applicant, Registered Vehicle Owner and Person to be Carried

6.15 Pursuant to the Regulations, DPPP applicant, or the applicant's spouse who is also a disabled person, should be the registered owner of the relevant vehicle. In other words, most DPPP applicants are the registered owner of the vehicle driven by them. Even in cases of the vehicle registered under the name of the spouse, the above provision has already considered the relationship between the applicant and the vehicle owner. Moreover, as restricted by law, TD does not accept application with vehicle registered under the name of an incorporated company/organisation.

6.16 The application for and issue of Parking Certificate are not legally based. TD restricts the relationships among the applicant, the registered vehicle owner and the person to be carried by administrative means. The notes to the application form stipulate that the applicant or the person to be carried must own a vehicle registered in either of their names. As such, the applicant might not be the registered owner, while the person with LLMD, although not capable of driving, might be. TD explained that no restriction is imposed on the relationship between the applicant and the person to be carried (see **para. 3.12**), taking into consideration not all persons with LLMD have relatives.

6.17 This Office noted TD's lenient approach to the relationship between Parking Certificate applicant and the person to be carried. In the past, Parking Certificate holders were only entitled to use the designated parking spaces inside TD's carparks when carrying the person with LLMD (see **para. 3.11**), so the lenient approach was less significant. Under the new measure, they can also use DPS free of charge, thus boosting the demand for those spaces. Given the insufficient supply, TD should examine whether its former lenient approach in approving application is tenable.

6.18 Meanwhile, disabled motorists can apply to TD for DPPP only after obtaining a driving licence. Since DPPP holders' vehicles are driven by themselves and vehicle modifications might be required when they apply for driving licence, each DPPP holder will use only one vehicle (registered in the name of the applicant or the spouse who is also a disabled person). The situation is different for Parking Certificate. The relevant vehicle could be registered under the name of the person to be carried or the applicant. As seen in our case studies, multiple applicants can apply to TD for a certificate if they have to share the duty of carrying the same person. According to existing approval criteria, Parking Certificates are issued in the following scenarios:

(1) multiple applicants apply to use the same vehicle for carrying a person with LLMD;

(2) one applicant applies to use several vehicles for carrying a person with LLMD; and

(3) multiple applicants apply to use several vehicles (e.g. one or more vehicles owned by each of them) for carrying a person with LLMD.

6.19 TD stressed that upon approving such application, it would issue only one Parking Certificate so that the certificate can only be used by one of the vehicles listed thereon at any given time (see **para. 3.25**). However, the above scenarios certainly increase the risk of abuse. Unlike DPPP holders, it is difficult to tell from mere observation whether the driver carrying a person with LLMD is the Parking Certificate holder (i.e. whether the Parking Certificate has been transferred and used by someone else), unless enforcement officers check the driver's identification on the spot when the vehicle is driven in or out of DPS. Subsequent investigation of suspected cases would be even more difficult.

6.20 Moreover, TD currently not only accepts application for Parking Certificate with a vehicle registered in the name of incorporated company/organisation (see **para. 5.18**) (i.e. the registered vehicle owner is a company or organisation), but also allows registered vehicle owners to authorise another person to be the applicant of Parking Certificate to drive their vehicles for carrying the person with LLMD, making the approval procedures more complicated. As shown in **case (4)** in **Chapter 5** (see **paras. 5.10 and 5.11**) and **scenarios (1) and (2)** in **paragraph 5.18**, neither the applicant nor the person to be carried was the registered vehicle owner (i.e. neither of them owned a vehicle registered in their names), but TD still accepted the application and issued the Parking Certificate. Indeed, registered vehicle owners (either individuals or companies) allowed by TD to authorise an applicant to drive their vehicles for carrying a person with LLMD are incompatible with the Parking Certificate's eligibility criteria (see **para. 3.18**). These cases are also more complicated and detrimental to TD's monitoring and enforcement against abuse of DPS. We urge TD to stringently review the eligibility criteria for Parking Certificate, especially in cases where the applicant, the registered vehicle owner and the person to be carried are different parties and authorisation for other persons to drive a vehicle is involved.

6.21 Regarding the situation in **case (4)**, TD explained that it approved the application on compassionate grounds in view of the exceptional circumstances. This Office recognises that TD has considered the grounds of application on a case-by-case basis. Still, persons carried by Parking Certificate applicants all suffer from various degrees of physical disabilities or diseases. This Office considers it essential to spell out the consideration factors for approval on compassionate or discretionary grounds. To avoid queries or even disputes about any deviation from the established requirements, TD should also draw up the approval conditions and criteria to ensure that the procedures are fair and impartial.

Failing to Prescribe Maximum Number of Vehicles Listed on Each Parking Certificate

6.22 TD's data showed that certain Parking Certificate applications were in respect of more than one vehicle on the grounds that family members would share the duty of carrying the person with LLMD (a young child or elderly person in most cases). Applicants might be required to explain the reason according to circumstances. Since TD requires that only one of the vehicles listed on the Parking Certificate can use it at any given time, upon approval of application to change information (such as changing the vehicle registration mark, adding or reducing the number of vehicles registered on a certificate, etc.), TD would request the holder to surrender the old certificate and then issue a new one.

6.23 We accept that TD has to consider the actual circumstances and needs of applicants and passengers with LLMD, and thus do not query its acceptance of applications with more than one vehicle. However, if TD mishandles the surrender of old certificate, it might create a loophole for abuse and affect other DPPP/Parking Certificate holders' opportunity to use DPS. **Case (3)** in **Chapter 5** (see **paras. 5.7 and 5.8**) showed that TD had failed to recall the old Parking Certificate, allowing the applicants to obtain two certificates in respect of the same person with LLMD by adding a vehicle. In this case, the old and invalid certificate was used for parking in DPS in breach of the conditions.

6.24 With the introduction of e-Permits, this Office believes that the need for TD to recall paper certificates will be reduced. Nevertheless, since TD would only issue one paper certificate, only one registered vehicle can display it at any given time even if multiple vehicles are listed thereon. The electronic certificates are to be downloaded and printed out by the holders themselves, and duplicate copies can be

printed out. We consider that in parallel with the introduction of e-Permits, TD should also draw up and implement effective control measures against abuse of e-Permits.

6.25 Meanwhile, our case studies revealed some applications with three or more vehicles, where the applicants did not explain why they needed to register multiple vehicles, nor did TD pursue the matter. We urge TD to step up scrutinising the nature and circumstances of each application to confirm whether the applicant has a genuine need to register multiple vehicles.

6.26 Furthermore, TD has not set an upper limit of vehicles to be registered on each certificate, and the maximum number approved so far is five in one case (see **para. 3.24**). Yet, TD has not elaborated on the consideration factors and rationale for approving this number of vehicles. Also, our case studies revealed a Parking Certificate application having been rejected for registering more than three vehicles (see **para. 5.16**). The case showed that TD might not have a clear internal standard on the maximum number of vehicles to be registered on each certificate, which could create confusion. We urge TD to prescribe a clear and uniform standard on the upper limit of vehicles, and draw up operational guidelines for handling applications with multiple vehicles, including in what circumstances such applications are acceptable.

No Restriction on Vehicle Types and Specifications

6.27 TD remarked that apart from statutory provisions, it has not imposed any restriction on the specifications of vehicles used by DPPP holders. Moreover, since the physical mobility of persons with LLMD might vary, TD has not restricted the types or specifications of vehicles used by Parking Certificate applicants either. When processing application for Parking Certificates, TD would obtain further information from the applicant where necessary, such as photographs and/or video clips showing the disabled passenger getting on/off the vehicle to ensure that it is suitable for relevant purposes (see **para. 3.30**).

6.28 In this regard, we note that DPPP holders' vehicles are solely for self-use. They are qualified disabled drivers having undergone driving ability assessment when applying for a driving licence to ensure their fitness to drive the types of vehicles (i.e. private cars, motor cycles or motor tricycles) prescribed under the Regulations (see **para. 3.7**). QEH Rehab Centre would assess whether the vehicle setup and accessories are suitable for use by the disabled driver concerned. Disabled drivers would also select the types and specifications of vehicles to suit their personal situation and needs,

and could only apply for DPPP after obtaining a driving licence. Consequently, the types and specifications of vehicles selected and used by disabled drivers are based on their own needs.

6.29 Unlike DPPP holders who are bound by the Regulations to use particular types of vehicles (i.e. private cars, motor cycles or motor tricycles), Parking Certificate holders are not restricted as to the types or specifications of vehicles they would use. In fact, most Parking Certificate applicants use vehicles already owned by them to carry the persons with LLMD. Their vehicles might not entirely suit the needs of passengers with LLMD, nor are the vehicles selected for carrying them as first priority. Qualified persons would assess the lower limb functions of the disabled passengers, but it is difficult to assess whether the vehicles used are suitable for their needs.

6.30 Even though TD has not restricted the types and specifications of vehicles used by Parking Certificate applicants so that it can take their practical needs into account (see **para. 3.27**), we are of the view that it should consider objectively whether certain types of vehicles are suitable for general use by persons with LLMD (for example, whether they can easily get on/off a sports car with very small space), thereby minimising abuse. Moreover, since the eligibility criteria of Parking Certificates are not legally based, TD's lenient approach in processing application for Parking Certificates would lead to different types of vehicles used for DPPP and Parking Certificate applications, and might cause disputes. We urge TD to step up scrutinising such applications and draw up reasonable standards on the vehicle types used by Parking Certificate holders. TD can also consider requiring attachment of photographs of the relevant vehicle with new or renewal applications. In addition to keeping relevant records, it would allow TD to conduct random checks or request supplementary information (such as video clips showing the disabled passenger getting on/off the vehicle) from applicants according to circumstances, so as to verify and ensure that the vehicles used are suitable for carrying the specified persons with LLMD.

6.31 Overall speaking, the issue of Parking Certificate and its conditions of use are not based on existing legislation as DPPP. But as TD considers the holders of both documents to be equally entitled to use DPS, the public would expect that applications for both documents are handled with similar consideration and stringent process. TD should provide specific and reasonable explanation for these discrepancies or alleviate them as far as possible to avoid disputes between DPPP and Parking Certificate holders about their right to use DPS.

6.32 As discussed in **paragraphs 6.1 and 6.2**, we understand and concur with TD's policy objectives. To achieve these objectives, TD should ensure that people with comparable levels of lower limb disabilities, either as drivers or passengers, are equally entitled to parking concessions. Although most of the complicated procedures that disabled drivers have to undergo before obtaining the DPPP are assessments and testing required when applying for a driving licence (see **paras. 3.5 and 3.6**), holding a driving licence is a prerequisite for the DPPP. It is undeniable that DPPP holders can only use DPS after satisfying strict requirements and subject to multiple conditions. In contrast, application for the Parking Certificate is relatively simple. However, since both DPPP and Parking Certificate holders can use DPS, the discrepancies in terms of approval criteria might affect the effectiveness of the relevant measures, as discussed above. If the problem cannot be properly resolved per se due to legal constraints, TD should consider and explore legislative amendments to provide explicit legal basis for the Parking Certificate.

6.33 Furthermore, overseas jurisdictions have adopted different practices to cater for the travel needs of people with disabilities. For instance, Canada makes no distinction between drivers and passengers with disabilities. A vehicle can be parked in the designated space as long as a person with disabilities holding the parking permit is on board, irrespective of who is driving. Singapore has stipulated different requirements for drivers and passengers with disabilities to use DPS. Taiwan has restricted the relationship between the applicant and the person to be carried, as well as the vehicle types. TD can draw reference from overseas practices to review and adapt the approval criteria for Parking Certificate according to local circumstances.

(IV) MEASURES TO PREVENT AND TACKLE ABUSE

To Consider Imposing Limitations on the Use of Designated Parking Spaces to Benefit More Drivers and Passengers with Disabilities

6.34 Same as on-street metered parking spaces, DPPP and Parking Certificate holders are prohibited from parking vehicles in DPS for a continuous period of more than 24 hours. The conditions of use stipulate that DPPP holders can use DPS for free, while Parking Certificate holders must have the person with LLMD on board when driving in and/or out of the DPS. TD added that DPS is originally intended for providing persons with LLMD with a wider space to get on/off a vehicle. Parking Certificate holders, if not need to use DPS for picking up or setting down persons with LLMD, could park vehicles in metered parking spaces or carparks nearby.

6.35 While TD is aware of the subtle difference between DPPP and Parking Certificate holders in how they actually use DPS, it has not set different limitations on the duration of use. After studying the cases provided by TD, we note that at times the person with LLMD carried by the Parking Certificate holder when driving into a DPS might not return there to get back on the vehicle, and the same vehicle would occupy the DPS for a long time in the interim. Despite no breach of the conditions of use (i.e. the person with LLMD named on the Parking Certificate must be on board when the vehicle was driven in and/or out of the DPS), the situation was unsatisfactory and not conducive to promoting the turnover of DPS. Nor could it make available DPS for use by other people with disabilities to achieve the objective of catering for their travel needs.

6.36 Under the new measure, the ratio of DPS to eligible vehicles has soared (see **para. 3.39**). To ensure proper and effective allocation of resources in the absence of corresponding increase in the supply of such spaces, TD should not only adopt effective measures to closely monitor the usage of DPS, but also explore the feasibility of imposing certain limitations. For instance, it can set a time limit or charge fees after the time limit for parking, so as to promote the turnover of DPS and allow more persons with LLMD to benefit from the DPPP or Parking Certificate.

Failing to Investigate and Handle Complaints Systematically

6.37 **Figure 4** in **paragraph 4.6** shows that the abuse of DPS mainly included parking for a continuous period of more than 24 hours by DPPP and Parking Certificate holders. For Parking Certificate holders, more cases involving not carrying a person with LLMD when using DPS.

6.38 HKPF is responsible for prosecution of parking in public on-street spaces (either general metered parking spaces or designated ones) for a continuous period of more than 24 hours. TD would refer relevant complaints to HKPF, but would not follow up each case with HKPF thereafter (see **para. 5.15**). TD, therefore, could not fully come to grips with the abuse of DPS, and its regulatory effectiveness was affected.

6.39 Meanwhile, TD is responsible for handling complaints against Parking Certificate holders for not carrying the person with disabilities when using DPS. According to its complaints handling procedures, TD would issue a letter to the Parking Certificate holder requiring explanation upon receiving an abuse complaint. Apart

from reviewing objective evidence (such as photographs and videos) provided by the complainant, TD would conduct further investigation into some cases. If Parking Certificate abuse is confirmed, TD would issue a warning letter to the holder for the first violation. Where repeated or persisting abuses are found, TD would cancel the Parking Certificate (see **paras. 3.33 and 4.5**).

6.40 However, from the case files provided by TD, we note that a holder had admitted two incidents of Parking Certificate abuse, but TD did not manage to issue a warning letter upon the first violation. Eventually, TD only issued a warning letter for the two violations instead of cancelling the Parking Certificate. Moreover, in some complaint cases, the Parking Certificate holders did not reply with explanation before the deadline specified by TD (see **para. 5.14**). To prevent holders suspected of violating the conditions of use from taking advantage of time difference or other excuses (such as before TD could issue a warning letter or holders denied having received the warning letter) and continuing with the abuse, TD should review its current procedures in handling abuse cases and clarify the definition of "repeated abuse" and the enforcement procedures, including the warning letter system, the consequences of holders not replying by deadline, etc.

6.41 Meanwhile, TD said that after introducing the new measure, it conducted regular surveys in the vicinity of DPS with high usage rates and frequent complaints or reports by the public. Between 29 January and October 2021, TD arranged 64 on-site surveys (see **para. 4.4**). However, we note that it conducted only one of those surveys on Sunday and all the remaining on weekdays (i.e. Mondays to Fridays).

6.42 TD conducted a large-scale territory-wide survey on the usage rates of DPS before introducing the new measure. The results showed that the usage rates on Saturdays and Sundays were on a par with those on weekdays (see **para. 2.7**). As such, TD's surveys targeting locations with high usage rates and frequent public complaints should not be limited to weekdays. Considering that TD has been allocated more resources for on-site surveys, we urge it to, besides stepping up monitoring, increase the number of surveys at weekends to obtain a more comprehensive understanding of the actual usage of DPS at those locations.

Improper Arrangement for Recalling Parking Certificates

6.43 According to TD's points to note for the issue of Parking Certificate, the vehicle registration mark(s) in subsequent application for using additional vehicle(s) to

carry the same person with LLMD will be added on the same Parking Certificate, subject to the application result. Before a new certificate is issued, the applicant is required to surrender the old one to TD by post (see **para. 3.25**). However, **case (3)** in **Chapter 5** showed that TD had issued a new certificate before the old one was surrendered, resulting in two certificates being used concurrently by different holders claiming to carry the same person with LLMD. In **case (2)**, the holder ignored TD's repeated reminders for surrender of the Parking Certificate and lodged an appeal in the interim. He did not surrender the certificate until two months after TD completed handling his appeal and issued the first notice to uphold the cancellation decision. It could not be ruled out that the holder continued to use DPS by displaying the invalid certificate during this period.

6.44 These cases reflected serious inadequacy in TD's procedures for handling the surrender of Parking Certificates. On the contrary, the Regulations stipulate the duties of DPPP holders after cancellation of DPPP and TD's powers. According to the revised Regulations, upon receiving TD's notice of cancellation or refusal to renew, the holder of e-Permit shall cease to display a printout of it on the vehicle; the holder of paper permit, in addition to not displaying the permit, shall also surrender it to TD within three days. DPPP holders failing to comply with the above provisions without reasonable excuse commit an offence and are liable to a fine (see **para. 3.32**). For Parking Certificates, as discussed in **paragraph 6.24**, the need for TD to recall paper certificates will be reduced with the introduction of e-Permits. Nevertheless, as the Parking Certificate is issued by administrative means, the fact that non-compliant holders (including failing to surrender the paper certificate to TD promptly after its cancellation/continuing to display an invalid electronic certificate on vehicle) are not liable to any legal consequences calls into question the fairness of the policy.

Penalties Carrying Insufficient Deterrence

6.45 At present, HKPF can prosecute motorists for parking in public parking spaces for a continuous period of more than 24 hours, and for parking in DPS without a valid DPPP or Parking Certificate. While both DPPP and Parking Certificate could be cancelled if their holders violate the conditions of use, as discussed in the **previous paragraph**, Parking Certificate holders are not liable to any legal sanctions for such violation.

6.46 New technology can certainly facilitate the monitoring of DPS usage, and TD should proceed in this area (see **para. 4.8**). However, technology itself can hardly

address the root cause of the problem. We consider that TD should fully recognise the fact that there is no law to regulate non-compliance by Parking Certificate holders, and step up enforcement against various forms of abuse. In the long run, TD should consider and explore strengthening the regulatory measures by legislative amendments.

Exploring Other Practical Solutions

6.47 In addition to DPS, passengers with disabilities can apply for the Certificate for Picking Up or Setting Down of Passengers with Disabilities in Restricted Zones ("RZ Certificate")[10]. Upon successful application, passengers with disabilities[11] would be issued a booklet with 50 RZ Certificates for handing to the driver after filling in details of their journey (date, time and pick-up/drop-off point) and the vehicle registration mark. Passengers with visual impairment can fill in the certificate in Braille. Drivers can present the certificate if interrogated by police officers.

6.48 Among the public comments we received, some suggested that TD can designate certain DPS for use by Parking Certificate holders, and consider issuing the Parking Certificate in a different way. For instance, it can issue dozens of Parking Certificates to an applicant monthly, with each certificate valid for single use (similar to the RZ Certificate described above), and the applicant is required to record the date and time for each use to minimise abuse. TD responded that if Parking Certificate was used in the same way as RZ Certificate, i.e. people with disabilities are issued dozens of certificates each time, with each certificate valid for single use by filling in the vehicle registration mark after they are carried for a ride, the Government would be unable to monitor the usage of Parking Certificates effectively by means of the vehicle registration marks already registered. Moreover, when an RZ Certificate is used, both the driver and the person with disabilities are on board the vehicle. In the case of Parking Certificate, the driver would leave the DPS after parking the vehicle. Enforcement

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[10] The RZ Certificate scheme was introduced in 1993 jointly by TD, HKPF and the Hong Kong Council of Social Service. For the convenience of people with disabilities, HKPF agrees to exercise discretion to allow drivers of taxi, private car, private light bus and private bus to pick up or set down passengers with disabilities in restricted zones (except expressways and 24 hours restricted zones), provided that no hazard or major disruption is caused to other road users.

[11] The following people with specified types of disabilities are eligible for the scheme:
(1) wheelchair users;
(2) visually impaired persons (i.e. totally blind or severely low vision);
(3) users of walking aids (e.g. artificial leg, crutches, and four-legged walking aids); and
(4) persons with mobility problem certified by doctors, occupational therapists, physiotherapists, or social workers.

officers could hardly verify the identity of the person with disabilities, rendering it difficult to perform regulatory duties.

6.49 We accept the explanation above. Nevertheless, we consider that TD can continue exploring other practical solutions to prevent and address parking abuse. In fact, some members of the public opined that TD should step up publicity and education to inform Parking Certificate holders of the conditions of using DPS; TD might consider introducing different types of private vehicles which are wheelchair accessible as a prerequisite for using DPS, or designating specific on-street parking spaces for use by Parking Certificate holders. We urge TD to collect views extensively, coordinate and sort out different solutions jointly with stakeholders, and balance the rights of various parties, thereby fostering a consensus.

6.50 Furthermore, apart from applying new technology to step up monitoring the usage of DPS, TD may consider providing real-time information about the availability of DPS via the "HKeMobility" application, similar to that of general on-street parking spaces, to facilitate the instant search of DPS by DPPP/Parking Certificate holders. It would also disseminate more information about the usage of DPS to the public.

RECOMMENDATIONS

6.51 Overall, this Office recommends that TD:

(1) clarify the policy and positioning of having DPS, fully assess their supply and demand, draw up a schedule for various tasks and regularly review progress of the tasks (see **para. 6.11**);

(2) regularly survey the usage rates of DPS, and release the data to the public (see **para. 6.13**);

(3) comprehensively review the eligibility and approval criteria for Parking Certificate, especially in cases where the applicant, the registered vehicle owner and the person to be carried are different parties and authorisation for another person to drive a vehicle is involved, as well as the consideration factors and conditions for approval on compassionate and discretionary grounds (see **paras. 6.20 and 6.21**);

(4) review and strengthen measures against various forms of Parking Certificate abuse (see **paras. 6.24 and 6.44**);

(5) when processing applications for Parking Certificate with multiple vehicles, step up scrutinising whether the applicants have a genuine need to use multiple vehicles, and draw up operational guidelines for handling such cases (see **para. 6.26**);

(6) draw up reasonable standards on the vehicle types used by Parking Certificate holders, and take proper measures to ensure that application is made with vehicles suitable for carrying the specified person with LLMD (see **para. 6.30**);

(7) explore setting limits on the use of DPS to promote turnover, such as setting a time limit of parking or charging fees after certain time limit (see **para. 6.36**);

(8) review existing procedures for handling parking abuse, clarify the definition of "repeated abuse" and the enforcement procedures (see **para. 6.40**);

(9) proceed with the installation of smart monitoring system at DPS to step up monitoring their usage (see **paras. 6.46 and 6.50**);

(10) in the long run, consider and explore legislative amendments to address the discrepancies between DPPP and Parking Certificate in terms of approval procedures, eligibility criteria and conditions of use under the different regimes and backgrounds (see **paras. 6.14, 6.17, 6.29, 6.31, 6.32 and 6.46**); and

(11) use various communication channels to engage and collect views extensively from stakeholders regarding the usage of DPS and the scope of Parking Certificate, thereby exploring and drawing up more comprehensive and proper solutions (see **paras. 6.8 and 6.49**).

ACKNOWLEDGEMENTS

6.52 The Ombudsman thanks TD for its cooperation in the course of this investigation. Moreover, we are grateful to the organisations and individuals for submitting their views on this subject.

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We will post the case summary of selected investigation reports on social media from time to time. Follow us on Facebook and Instagram to get the latest updates.

Facebook.com/Ombudsman.HK	**Instagram.com/Ombudsman_HK**

Annexes

Annex I

Transport Department's Territory-wide Survey of Designated Parking Spaces (Conducted in July and August 2019)

Table (1): Overall usage rate by vehicles with Disabled Person's Parking Permit

Usage rates of Designated Parking Spaces ("DPS")		
Monday to Friday	**Saturday**	**Sunday**
35.6%	35.2%	37.1%

Table (2): Usage rate with breakdown by four sessions

Sessions	Usage rates of DPS		
	Monday to Friday	**Saturday**	**Sunday**
0000 – 0559	30.8%	27.5%	33.2%
0600 – 1159	34.6%	34.4%	37.2%
1200 – 1759	41.6%	42.2%	41.4%
1800 – 2359	35.2%	36.9%	36.9%

Table (3): Usage rate with breakdown by districts

Districts	Usage rates of DPS		
	Monday to Friday	Saturday	Sunday
Hong Kong			
Central & Western	41.7%	30.0%	30.0%
Eastern	50.1%	40.9%	53.1%
Southern	29.6%	26.2%	36.1%
Wan Chai	35.1%	38.5%	38.1%
Kowloon			
Kowloon City	39.7%	30.6%	40.2%
Kwun Tong	46.5%	29.1%	35.4%
Sham Shui Po	34.1%	37.9%	35.1%
Wong Tai Sin	35.0%	49.9%	48.7%
Yau Tsim Mong	37.3%	37.5%	36.2%
New Territories			
Islands	30.9%	25.0%	50.0%
Kwai Tsing	38.4%	44.9%	43.8%
Northern	28.4%	46.4%	60.3%
Sai Kung	12.7%	25.1%	25.8%
Sha Tin	35.8%	44.0%	33.3%
Tai Po	23.8%	31.1%	23.1%
Tsuen Wan	42.6%	43.4%	43.3%
Tuen Mun	21.7%	17.3%	18.6%
Yuen Long	24.1%	17.8%	23.6%
Total	**35.6%**	**35.2%**	**37.1%**

Annex II

Transport Department's Follow-up Survey of Designated Parking Spaces with Highest Usage Rates Revealed in 2019 Survey (Conducted in September 2020)

Table (1): Overall usage rate by vehicles with Disabled Person's Parking Permit

Usage rates of Designated Parking Spaces ("DPS")		
Monday to Friday	**Saturday**	**Sunday**
50.3%	48.9%	48.2%

Table (2): Usage rate with breakdown by four sessions

Sessions	Usage rates of DPS		
	Monday to Friday	**Saturday**	**Sunday**
0000 – 0559	51.6%	48.9%	54.3%
0600 – 1159	47.2%	49.7%	49.2%
1200 – 1759	52.0%	45.1%	46.3%
1800 – 2359	50.3%	51.8%	43.2%